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THE
DEBATES
IN THE SEVERAL
STATE CONVENTIONS
ON THE ADOPTION OF THE
FEDERAL CONSTITUTION,
AS RECOMMENDED BY THE
GENERAL CONVENTION AT PHILADELPHIA,
IN
1787.
TOGETHER WITH THE
JOURNAL OF THE FEDERAL CONVENTION,
LUTHER MARTIN'S LETTER,
YATES'S MINUTES,
CONGRESSIONAL OPINIONS,
VIRGINIA AND KENTUCKY RESOLUTIONS OF '98-99,
AND
OTHER ILLUSTRATIONS OF THE CONSTITUTION
—
IN FIVE VOLUMES.
VOL. II.

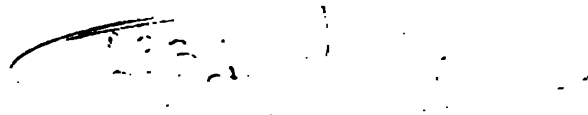
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BY JONATHAN ELLIOT.

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In the Clerk's Office of the District Court of the District of Columbia.

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DEBATES
IN
THE CONVENTION
OF THE
COMMONWEALTH OF MASSACHUSETTS,
ON THE
ADOPTION OF THE FEDERAL CONSTITUTION.

IN CONVENTION, BOSTON, *January 9, 1788.*

ON motion, *Ordered*, That the Hon. Nathaniel Gorham, John Carnes, Esq., Dr. Charles Jarvis, Hon. Tristram Dalton, Hon. Walter Spooner, Hon. Caleb Davis, and Hon. John Taylor, be a committee to receive the returns of the several towns.

Ordered, That a committee of five persons be appointed to collect, count, and sort the votes for a secretary; and the Hon. Caleb Davis, Tristram Dalton, Aaron Wood, Eleazer Brooks, and Charles Turner, Esquires, were appointed.

The Convention then proceeded to the choice of a secretary by ballot, and, the votes being taken, it appeared that George Richards Minot, Esq. was chosen, who accepted of the choice, and was duly sworn to qualify him for exercising the duties of that office.

Voted, That Mr. Jacob Kuhn, the messenger of the General Court, be appointed messenger to this Convention.

Voted, That five monitors be chosen, and the following gentlemen were elected, viz., the Hon. Noah Goodman, Mr. Phanuel Bishop, Mr. Daniel Cooley, Hon. Azor Orne, and Mr. Thomas Davis.

Voted, That a committee of seven be appointed to prepare rules and orders for the regulation of the Convention. The Hon. Nathaniel Gorham, Dr. Charles Jarvis, Hon. John Taylor, Mr. William Widgery, Hon. Tristram Dalton, Hon

Theodore Sedgwick, and James Bowdoin, Jun., Esq., were then appointed on the said committee.

Afternoon.—The Convention proceeded to the choice of a president by ballot, according to assignment; and, a committee of five being appointed to collect, count, and sort the votes, it appeared that his Excellency, John Hancock, was chosen.

Voted, That the Convention proceed to the choice of a vice-president.—The Convention then proceeded to the choice of a vice-president accordingly, by ballot; and, a committee being appointed to collect, count, and sort the votes, it appeared that the Hon. William Cushing was chosen; who by request took the chair.

Voted, That a committee of five be appointed to wait upon his Excellency, John Hancock, and acquaint him that this Convention have made choice of him for their president, and to request his Excellency's acceptance of that appointment.

On motion of the Hon. Mr. Adams, *Voted*, That the Convention will attend morning prayers, daily, and that the gentlemen of the clergy, of every denomination, be requested to officiate in turn.

The members from Boston were appointed to wait upon them, and acquaint them thereof.

A vote of the church in Brattle Street, in Boston, offering the use of their meeting-house to the Convention, being communicated by the Hon. Mr. Bowdoin, *Voted*, That a committee of nine be appointed, to view the accommodations of the said meeting-house, and report.

Mr. Sedgwick, Mr. Lincoln, Dr. Taylor, Gen. Brooks of Lincoln, Dr. Jarvis, Dr. Holton, Mr. Strong, Mr. Nason, and Mr. Thatcher, were then appointed on said committee.

THURSDAY, *January 10.*—The committee appointed to examine the returns of delegates, desired a rule, whereby they might determine whether the towns had exceeded their privilege to send members. After a long debate, a motion was made, that the valuation of the different towns, returned in 1784, should be the rule to determine the number.

An offer having been made, by the church in Brattle Street, of that meeting-house, for the use of the Convention, and a committee having viewed the accommodation, it was voted that when the Convention do adjourn, that it adjourn to

meet at three o'clock, at the meeting-house in Brattle Street.

FRIDAY, 11th. — Committees were raised to inquire respecting the contested elections, and enjoined to sit immediately.

Afternoon. — The house in which the Convention were sitting, on account of the difficulty of hearing, being found inconvenient, a committee was raised to provide one more suitable, after which it was voted to adjourn to Saturday morning, then to meet in the representatives' chamber.

SATURDAY, 12th. — The Honorable Convention met again in the representatives' chamber, where they decided all the disputed elections in favor of the members returned. The sense of the Convention was twice taken against removing to any other place.

MONDAY, January 14. — The Constitution for the United States of America, as reported by the Convention of delegates, held at Philadelphia, in May last, together with the resolutions of the General Court of this commonwealth, for calling a Convention, agreeably to the recommendation of Congress, were ordered to be read.

On motion of Mr. Strong, *Voted*, That this Convention, sensible how important it is that the great subject submitted to their determination should be discussed and considered with moderation, candor, and deliberation, will enter into a free conversation on the several parts thereof, by paragraphs, until every member shall have had an opportunity to express his sentiments on the same; after which the Convention will consider and debate at large the question whether this Convention will adopt and ratify the proposed Constitution, before any vote is taken expressive of the sense of the Convention, upon the whole or any part thereof.

The resolve of the General Court of this commonwealth, of March, 1787, appointing delegates for the Convention of the states, held at Philadelphia, was ordered to be read.

A motion was made and passed, that the Hon. Elbridge Gerry be requested to take a seat in the Convention, to answer any questions of fact, from time to time, that the Convention may ask, respecting the passing of the Constitution.

Afternoon. — *Ordered*, That a committee of three be

appointed to wait upon the Hon. Elbridge Gerry, and acquaint him with the vote of this morning, requesting him to take a seat in the Convention, to answer to any questions of fact, from time to time, that the Convention may ask, respecting the passing the Constitution.

Agreeably to the resolution passed in the forenoon, the Convention proceeded to consider the first section of the Constitution, and, after a short conversation, entered upon the discussion of the second section, the first paragraph of which caused a lengthy debate.

The Convention entered upon the consideration of the proposed Constitution, and, having debated thereon through the day, postponed the further consideration thereof to the next morning.

It had been mentioned by some gentlemen, that the introduction of tyranny into several nations had been by lengthening the duration of their parliaments or legislative bodies; and the fate of those nations was urged as a caution against lengthening the period for which Congress is to be chosen. Mr. SEDGWICK wished to know what were the nations which had been thus deprived of their liberties; he believed they were few in number; in fact, he did not recollect any. After showing, by several examples, how nations had been deprived of their liberties, he continued, — Is it not necessary, Mr. President, that the federal representatives should be chosen for two years? Annual elections, in a single state, may be the best for a variety of reasons; but when the great affairs of thirteen states — where their commerce may be extended, and where it is necessary to be restricted — what measures may be most expedient, and best adapted to promote the general prosperity thereof, are to be the objects of deliberation, is not such a period too short? Can a man, called into public life, divest himself of local concerns, and instantly initiate himself into a general knowledge of such extensive and weighty matters? After several other arguments in favor of the section, he begged the indulgence of the Convention while he made a personal observation: “It has been given out, sir, by several persons, that I have said the Constitution must go down, right or wrong; I beg leave to declare, sir, on my honor, that, so far from having made such a declaration, the idea of it has not ever entered my mind.”

Mr. G. DENCH wished to know how the representation was secured ; as, by the 4th. section, Congress were empowered to make or alter the regulation of the times, places, and manner of holding elections. Mr. D. was continuing, but was called to order by Mr. Parsons, who said the subject in debate was the *expediency of biennial elections*, and that an answer to the gentleman from Hopkinton would more properly be given when the 4th section was under consideration.

Dr. TAYLOR. Mr. President, I am opposed to *biennial*, and am in favor of *annual* elections. Annual elections have been the practice of this state ever since its settlement, and no objection to such a mode of electing has ever been made. It has, indeed, sir, been considered as the safeguard of the liberties of the people ; and the annihilation of it, the avenue through which tyranny will enter. By the Articles of Confederation, annual elections are provided for, though we have additional securities in a right to recall any or all of our members from Congress, and a provision for rotation. In the proposed Constitution, there is no provision for rotation ; we have no right by it to recall our delegates. In answer to the observations, that, by frequency of elections, good men will be excluded, I answer, if they behave well, it is probable they will be continued ; but if they behave ill, how shall we remedy the evil ? It is possible that rulers may be appointed who may wish to root out the liberties of the people. Is it not, Mr. President, better, if such a case should occur, that at a short period they should politically die, than that they should be proceeded against by impeachment ? These considerations, and others, said the doctor, make me in favor of annual elections ; and the further we deviate therefrom, the greater is the evil.

The Hon. Mr. SPRAGUE was in favor of the section as it stood. He thought the same principles ought not to guide us when considering the election of a body whose jurisdiction was coëxtensive with a great continent, as when regulating that of one whose concerns are only those of a single state.

Mr. T. DAWES, after a short exordium, said he had not heard it mentioned by any gentleman who had spoken in the debate, that the right of electing representatives in the Congress. as provided for in the proposed Constitution, will

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be the acquisition of a new privilege by the people, as it really will be. The people will then be immediately represented in the federal government; at present they are not; therefore it will be in favor of the people, if they are chosen for forty instead of two years; — and he adduced many reasons to show that it would not conduce to the interests of the United States, or the security of the people, to have them for a shorter period than two years.

The Hon. Mr. WHITE said he was opposed to the section; he thought the security of the people lay in frequent elections; for his part, he would rather they should be for six months than for two years; — and concluded by saying he was in favor of annual elections.

Dr. JARVIS, Gen. BROOKS, Gen. HEATH, and Mr. TURNER, each spoke a few words on the subject, when a motion was made to postpone the consideration of the 2d section until the next meeting, which passing, the Convention adjourned.

TUESDAY, *January 15.* — A motion was made by Mr. DANA, that the vote of yesterday, prescribing the manner of proceeding in the consideration of the Constitution, should be reconsidered, for the purpose of making the following addition thereto, viz.: —

“It is, nevertheless, the opinion of this Convention, that, if any member conceives any other clause or paragraph of the Constitution to be connected with the one immediately under consideration, that he have full liberty to take up such other clause or paragraph for that purpose.” And the question of reconsideration, being put, passed in the affirmative.

On the question whether the addition should be made, it was determined in the affirmative.

The Hon. Mr. STRONG rose to reply to the inquiry of the Hon. Mr. Adams, why the alteration of *elections* from annual to biennial was made; and to correct an inaccuracy of the Hon. Mr. Gorham, who, the day before, had said that *that* alteration was made to gratify South Carolina. He said he should then have arisen to put his worthy colleague right, but his memory was not sufficiently retentive to enable him immediately to collect every circumstance. He had since recurred to the original plan. When the subject was at first discussed in Convention, some gentlemen were for having the term extended for a considerable length of

time; others were opposed to it, as it was contrary to the ideas and customs of the Eastern States; but a majority was in favor of three years, and it was, he said, urged by the Southern States, which are not so populous as the Eastern, that the expense of more frequent elections would be great;—and concluded by saying that a general concession produced the term as it stood in the section, although it was agreeable to the practice of South Carolina.

Mr. AMES. I do not regret, Mr. President, that we are not unanimous upon this question. I do not consider the diversity of sentiment which prevails as an impediment in our way to the discovery of truth. In order that we may think alike upon this subject at last, we shall be compelled to discuss it by ascending to the principles upon which the doctrine of representation is grounded.

Without premeditation, in a situation so novel, and awed by the respect which I feel for this venerable assembly, I distrust extremely my own feelings, as well as my competency to prosecute this inquiry. With the hope of an indulgent hearing, I will attempt to proceed. I am sensible, sir, that the doctrine of frequent elections has been sanctioned by antiquity, and is still more endeared to us by our recent experience and uniform habits of thinking. Gentlemen have expressed their zealous partiality for it. They consider this as a leading question in the debate, and that the merits of many other parts of the Constitution are involved in the decision. I confess, sir, and I declare that my zeal for frequent elections is not inferior to their own. I consider it as one of the first securities for popular liberty, in which its very essence may be supposed to reside. But how shall we make the best use of this pledge and instrument of our safety?

A right principle, carried to an extreme, becomes useless. It is apparent that a declaration for a very short term, as for a single day, would defeat the design of representation. The election, in that case, would not seem to the people to be of any importance, and the person elected would think as lightly of his appointment. The other extreme is equally to be avoided. An election for a very long term of years, or for life, would remove the member too far from the control of the people, would be dangerous to liberty, and in fact repugnant to the purposes of the delegation. The truth, as

usual, is placed somewhere between the extremes, and I believe is included in this proposition: The term of election must be so long, that the representative may understand the interest of the people, and yet so limited, that his fidelity may be secured by a dependence upon their approbation.

Before I proceed to the application of this rule, I cannot forbear to premise some remarks upon two opinions, which have been suggested.

Much has been said about the people divesting themselves of power, when they delegate it to representatives; and that all representation is to their disadvantage, because it is but an image, a copy, fainter and more imperfect than the original, the people, in whom the light of power is primary and unborrowed, which is only reflected by their delegates. I cannot agree to either of these opinions. The representation of the people is something more than the people. I know, sir, but one purpose which the people can effect without delegation, and that is to destroy a government. That they cannot erect a government, is evinced by our being thus assembled on their behalf. The people must govern by a majority, with whom all power resides. But how is the sense of this majority to be obtained? It has been said that a pure democracy is the best government for a small people who assemble in person. It is of small consequence to discuss it, as it would be inapplicable to the great country we inhabit. It may be of some use in this argument, however, to consider, that it would be very burdensome, subject to faction and violence; decisions would often be made by surprise, in the precipitancy of passion, by men who either understand nothing or care nothing about the subject; or by interested men, or those who vote for their own indemnity. It would be a government not by laws, but by men.

Such were the paltry democracies of Greece and Asia Minor, so much extolled, and so often proposed as a model for our imitation. I desire to be thankful that our people (said Mr. Ames) are not under any temptation to adopt the advice. I think it will not be denied that the people are gainers by the election of representatives. They may destroy, but they cannot exercise, the powers of government in person, but by their servants *they* govern: they do not renounce their power; they do not sacrifice their rights; they become the true sovereigns of the country when they

delegate that power, which they cannot use themselves to their trustees.

I know, sir, that the people talk about the liberty of nature, and assert that we divest ourselves of a portion of it when we enter into society. This is declamation against matter of fact. We cannot live without society; and as to liberty, how can I be said to enjoy that which another may take from me when he pleases? The liberty of one depends not so much on the removal of all restraint from him, as on the due restraint upon the liberties of others. Without such restraint, there can be no liberty. Liberty is so far from being endangered or destroyed by this, that it is extended and secured. For I said that we do not enjoy that which another may take from us. But civil liberty cannot be taken from us, when any one may please to invade it; for we have the strength of the society on our side.

I hope, sir, that these reflections will have some tendency to remove the ill impressions which are made by proposing to divest the people of their power.

That they may never be divested of it, I repeat that I am in favor of frequent elections. They who commend annual elections are desired to consider, that the question is, whether biennial elections are a defect in the Constitution; for it does not follow, because annual elections are safe, that biennial are dangerous; for both may be good. Nor is there any foundation for the fears of those, who say that if we, who have been accustomed to choose for one year only, now extend it to two, the next stride will be to five or seven years, and the next for term of life; for this article, with all its supposed defects, is in favor of liberty. Being inserted in the Constitution, it is not subject to be repealed by law. We are sure that it is the worst of the case. It is a fence against ambitious encroachments, too high and too strong to be passed. In this respect, we have greatly the advantage of the people of England, and of all the world. The law which limits their Parliaments is liable to be repealed.

I will not defend this article by saying that it was a matter of compromise in the federal Convention. It has my entire approbation as it stands. I think that we ought to prefer, in this article, biennial elections to annual; and my reasons for this opinion are drawn from these sources: —

From the extent of the country to be governed ;

The objects of their legislation ;

And the more perfect security of our liberty.

It seems obvious that men who are to collect in Congress from this great territory, perhaps from the Bay of Fundy, or from the banks of the Ohio, and the shore of Lake Superior, ought to have a longer term in office, than the delegates of a single state, in their own legislature. It is not by riding post to and from Congress that a man can acquire a just knowledge of the true interests of the Union. This term of election is inapplicable to the state of a country as large as Germany, or as the Roman empire in the zenith of its power.

If we consider the objects of their delegation, little doubt will remain. It is admitted that annual elections may be highly fit for the state legislature. Every citizen grows up with a knowledge of the local circumstances of the state. But the business of the federal government will be very different. The objects of their power are few and national. At least two years in office will be necessary to enable a man to judge of the trade and interests of the state which he never saw. The time, I hope, will come, when this excellent country will furnish food, and freedom, (which is better than food, which is the food of the soul,) for fifty millions of happy people. Will any man say that the national business can be understood in one year ?

Biennial elections appear to me, sir, an essential security to liberty. These are my reasons :—

Faction and enthusiasm are the instruments by which popular governments are destroyed. We need not talk of the power of an aristocracy. The people, when they lose their liberties, are cheated out of them. They nourish factions in their bosoms, which will subsist so long as abusing their honest credulity shall be the means of acquiring power. A democracy is a volcano, which conceals the fiery materials of its own destruction. These will produce an eruption, and carry desolation in their way. The people always mean right; and, if time is allowed for reflection and information, they will do right. I would not have the first wish, the momentary impulse of the public mind, become law; for it is not always the sense of the people, with whom I admit that all power resides. On great questions,

we first hear the loud clamors of passion, artifice, and faction. I consider biennial elections as a security that the sober, second thought of the people shall be law. There is a calm review of public transactions, which is made by the citizens who have families and children, the pledges of their fidelity. To provide for popular liberty, we must take care that measures shall not be adopted without due deliberation. The member chosen for two years will feel some independence in his seat. The factions of the day will expire before the end of his term.

The people will be proportionably attentive to the merits of a candidate. Two years will afford opportunity to the member to deserve well of them, and they will require evidence that he has done it.

But, sir, the representatives are the grand inquisition of the Union. They are, by impeachment, to bring great offenders to justice. One year will not suffice to detect guilt, and to pursue it to conviction; therefore they will escape, and the balance of the two branches will be destroyed, and the people oppressed with impunity. The senators will represent the sovereignty of the states. The representatives are to represent the people. The offices ought to bear some proportion in point of importance. This will be impossible if they are chosen for one year only.

Will the people, then, blind the eyes of their own watchmen? Will they bind the hands which are to hold the sword for their defence? Will they impair their own power by an unreasonable jealousy of themselves?

For these reasons, I am clearly of opinion that the article is entitled to our approbation as it stands; and as it has been demanded, why annual elections were not preferred to biennial, permit me to retort the question, and to inquire, in my turn, what reason can be given, why, if annual elections are good, biennial elections are not better?

The inquiry in the latter part of Mr. Ames's speech being directed to the Hon. Mr. Adams, that gentleman said, he only made the inquiry for information, and that he had heard sufficient to satisfy himself of its propriety.

Mr. DENCH said his objections to biennial elections were removed; but he wished to recur to the 4th section, and to inquire. whether *that election was secured*, as, by this

section, Congress has power to regulate the time, place, and manner of holding it.

[A question now arose, whether the consideration of the 4th section was in order, and much debate was had thereon; but the propriety, as expressed by a worthy member, of "elucidating scripture by scripture," being generally admitted, the motion made by the Hon. Mr. Dana passed, which put an end to the conversation.]

The Hon. Mr. BOWDOIN remarked on the idea suggested by the honorable gentleman from Scituate, [Mr. Turner,] who had said that nature pointed out the propriety of *annual* elections, by the *annual* renewal, and observed, that if the revolution of the heavenly bodies is to be the principle to regulate elections, it was not fixed to any period, as in some of the systems it would be very short; and in the last-discovered planet it would be eighty of our years. Gentlemen, he said, who had gone before him in debate, had clearly pointed out the alteration of the election of our federal representatives, from annual to biennial, to be justifiable. Annual elections may be necessary in this state, but in the choice of representatives from the continent, it ought to be longer; nor did he see any danger in its being so. Who, he asked, are the men to be elected? Are they not to be from among us? If they were to be a distinct body, then the doctrine of precaution, which gentlemen use, would be necessary; but, sir, they can make no laws, nor levy any taxes, but those to which they themselves must be subservient; they themselves must bear a part; therefore our security is guarantied by their being thus subject to the laws, if by nothing else.

Gen. HEATH. Mr. President, I consider myself not as an inhabitant of Massachusetts, but as a citizen of the United States. My ideas and views are commensurate with the continent; they extend in length from the St. Croix to the St. Maria, and in breadth from the Atlantic to the Lake of the Woods; for over all this extensive territory is the federal government to be extended.

I should not have risen on this paragraph, had it not been for some arguments which gentlemen have advanced respecting elections, and which, I think, tend to make dangerous impressions on the minds of the rising generation. It has

been the general opinion that the liberties of the people are principally secured by the frequency of elections, and power returning again into their own hands. The first Parliament ever called in Europe was called by Constantine the Third, and to continue for one year. The worthy gentleman from Boston [Mr. Dawes] has mentioned a writer as a good authority, and who, he says, was twenty years compiling his works. I will produce one observation from this celebrated writer, Baron Montesquieu; it is as follows: "The greatness of power must be compensated by the brevity of the duration; most legislators have fixed it to a year; a longer space would be dangerous." Here, sir, we have not only the opinion of this celebrated writer, but he has also mentioned that most legislators were of the like opinion; but I shall come to our own country, where we shall find in what respect annual elections have always been held. This was the wisdom of our ancestors; it has been confirmed by time; therefore, sir, before we change it, we should carefully examine whether it be for the better. Local circumstances may render it expedient; but we should take care not to hold up to the rising generation, that it is a matter of indifference whether elections be annual or not; and this is what induced me to rise.

It is a novel idea, that representatives should be chosen for a considerable time, in order that they may learn their duty. The representative is one who appears in behalf of, and acts for, others; he ought, therefore, to be fully acquainted with the feelings, circumstances, and interests of the persons whom he represents; and this is learnt among them, not at a distant court. How frequently, on momentary occasions, do the members of the British Parliament wish to go home and consult their constituents, before they come to decision! This shows from what quarter they wish to obtain their information. With respect to the obtaining a knowledge of the circumstances and abilities of the other states, in order to an equal taxation, this must be acquired from the returns of the number of inhabitants, &c., which are to be found on the files of Congress; for I know not how length of time could furnish other information, unless the members should go from state to state, in order to find out the circumstances of the different states. I think representatives ought always to have a general knowledge of the interests of

their constituents, as this alone can enable them properly to represent them.

But, sir, if there be charms in the paragraph now under consideration, they are these: Congress, at present, are continually sitting; but under the new Constitution, it is intended that Congress shall sit but once annually, for such time as may be necessary, and then adjourn. In this view, every gentleman acquainted with the business of legislation knows that there is much business, in every session, which is taken up and partly considered, but not finished; an adjournment keeps all this business alive; and at the next session it is taken up and completed, to the benefit of the people, in a great saving of expense, which would otherwise be lost; for a new legislature would not see through the eyes of those who went before them; consequently all business partly finished would be time lost, to the injury of the public. Therefore, as it seems to be intended that Congress shall have but two sessions in the two years for which the representatives are to be chosen, this consideration has reconciled me to the paragraph, and I am in favor of biennial elections.

Mr. TURNER, in reply to the Hon. Mr. Bowdoin, said he thought it an important consideration whether the elections were to be for one or for two years. He was, he said, greatly in favor of annual elections, and he thought, in the present instance, it would be establishing a dangerous precedent to adopt a change; for, says he, the principle may so operate, as, in time, our elections will be as *seldom* as the revolution of the star the honorable gentleman talks of.

Mr. DAWES, in answer to Gen. Heath, said, that the passage quoted from Montesquieu applied to *single* governments, and not to *confederate* ones.

Gen. BROOKS, (of Medford,) in reply to Gen. Heath, said, he recollected the passage of Montesquieu, but he also recollected that that writer had spoken highly of the British government. He then adverted to the objection to this section of Gen. Thompson and others, that biennial elections were a novelty, and said, we were not to consider whether a measure was new, but whether it was proper. Gentlemen had said that it had been the established custom of this country to elect annually; but, he asked, have we not gone from a colonial to an independent situation? We were then

provinces; we are now an independent empire; our measures, therefore, says he, must change with our situation. Under our old government, the objects of legislation were few and divided; under our present, there are many, and must be united; and it appears necessary that, according to the magnitude and multiplicity of the business, the duration should be extended, he did not, he said, undertake to say how far. He then went into a view of the history of Parliaments: the modern northern nations, he said, had Parliaments; but they were called by their kings; and the time, business, &c., of them, depended wholly on their wills.

We can, therefore, says he, establish nothing from these. One general remark was, that, in the reigns of weak princes, the power and importance of Parliaments increased; in the reigns of strong and arbitrary kings, they always declined; and, says he, they have been *triennial*, and they have been *septennial*. The general combated the idea *that the liberties of the people depended on the duration of Parliament*, with much ability. Do we hear, asked he, that the people of England are deprived of their liberties? or that they are not as free now as when they had short Parliaments? On the contrary, do not writers agree, that life, liberty, and property, are nowhere better secured than in Great Britain, and that this security arises from their Parliaments being chosen for seven years? As such is the situation of the people of England, and as no instance can be given wherein biennial elections have been destructive to the liberties of the people, he concluded by asking, whether so much danger is to be apprehended from such elections as gentlemen imagined.

Gen. THOMPSON. Sir, gentlemen have said a great deal about the history of old times. I confess I am not acquainted with such history; but I am, sir, acquainted with the history of my own country. I had the honor to be in the General Court last year, and am in it this year. I think, sir, that had the last administration continued one year longer, our liberties would have been lost, and the country involved in blood. Not so much, sir, from their bad conduct, but from the suspicions of the people of them. But, sir, a change took place; from this change pardons have been granted to the people, and peace is restored. This, sir, I say, is in favor of frequent elections.

[Gen. T. was called to order, on the idea that he reflected on the last administration. A debate ensued, which ended on the Hon. Mr. White's saying, he wished to put out every spark of the fire that appeared to be kindling; therefore moved to adjourn.]

Afternoon. — Dr. TAYLOR opened the conversation of the afternoon, by calling upon Gen. Thompson to proceed.

Gen. THOMPSON accordingly said, that, however just, however good, and however upright the administration may be, there was still a great necessity for annual elections.

He thought a change of election was for the best, even if the administration pleased the people. Do the members of Congress, says he, displease us, we call them home, and they obey. Now, where is the difference of their having been elected for one or two years? It is said that the members cannot learn sufficiently in that time. Sir, I hope we shall never send men who are *not learned*. Let these members know their dependence upon the people, and I say it will be a check on them, even if they were not good men. Here the general broke out in the following pathetic apostrophe: "O my country, never give up your annual elections! young men, never give up your jewel!" He apologized for his zeal. He then drew a comparison between the judges, &c., of this country before the revolution, who were dependent on Great Britain for their salaries, and those representatives dependent on the Continent. He concluded by hoping that the representatives would be annually elected, and thereby feel a greater dependence on the people.

Mr. GORE. It has been observed, that, in considering this great and momentous question, we ought to consult the sentiments of wise men, who have written on the subject of government, and thereby regulate our decision on this business. A passage is adduced from Montesquieu, stating that, where the people delegate great power, it ought to be compensated for by the shortness of the duration. Though strictly agreeing with the author, I do not see that it applies to the subject under consideration. This might be perfectly applicable to the ancient governments, where they had no idea of representation, or different checks in the legislature or administration of government; but, in the proposed Constitution, the powers of the whole government are limited to certain national objects, and are accurately defined. The

House of Representatives is but one branch of the system, and can do nothing of itself. Montesquieu, in the sentiment alluded to, must have had in his mind the Epistates of Athens, or the Dictators of Rome; but certainly observations drawn from such sources can have no weight in considering things so efficiently different. Again, sir, gentlemen have said that annual elections were necessary to the preservation of liberty, and that, in proportion as the people of different nations have lengthened, beyond the term of a year, the duration of their representatives, they have lost their liberties, and that all writers have agreed in this. I may mistake; but I know no such thing as a representation of the people in any of the ancient republics. In England, from whence we receive many of our ideas on this subject, King John covenanted with his people to summon certain classes of men to Parliament. By the constitution of that country, the king alone can convoke, and he alone, previous to the revolution, could dissolve, the Parliament; but in the reign of William the Third, the patriots obtained an act limiting the duration of Parliament to three years. Soon after, a Parliament then sitting, and near expiring, a rebellion broke out, and the tories and Jacobites were gaining strength to support the Pretender's claim to the crown. Had they dissolved themselves, and a new Parliament been convoked, probably many of the very opponents to the government might have been elected. In that case they might have effected by law what they in vain attempted by arms.

The Parliament, therefore, extended their duration from triennial to septennial. This was acquiesced in by the people, and the next Parliament sanctioned the act. No evil, but great good, has been supposed to follow from their duration being thus extended; and if Montesquieu and Dr. Adams think the British constitution so perfect, how much greater must be our security, when we reflect that our representation is equal; that the powers of the government are so limited, and the checks so nicely appointed! If there be a representation of the people in any other countries, and annual elections therein have been considered as the basis of their freedom, I pray gentlemen to mention the instances; I confess I know none. People adopt a position which is certainly true, viz., that elections ought to be frequent; but, then, as we have been in the custom of choosing our repre-

representatives annually, we have determined annually to be frequent, and that biennial, or any longer term than annual, is not frequent; but if gentlemen will only consider the objects over which this government is to have rule and authority, and the immense and wide-extended tracts of country over which the representatives are to pass before they reach the seat of government, I think they will be convinced that two years is a short time for the representatives to hold their office. Further, sir, we must consider this subject with respect to the general structure of the Constitution. The Senate represents the sovereignty of the states; the House of Representatives the people of the United States. The former have a longer term in their office; it is then necessary that that body which represents the people should have a permanence in their office, to resist any operations of the Senate, which might be injurious to the people. If they were annual, I submit it to the good sense of this house whether they would be able to preserve that weight in the system which the Constitution intended they should have, and which is absolutely necessary for the security of the rights of the people.

The Hon. Mr. KING said he would not detain the Convention by any exordium for the purpose of obtaining their attention. He declared, however, that he thought the subject might be freed from certain prejudices connected with its examination, and that thereby the question might receive a fairer decision: this should be the object of his address.

The honorable gentleman observed, that the Convention would do well to lay aside the terms *annual* or *biennial*, and consider the subject as it could be supported by principles. Much had been said of the instruction to be derived from history on this point; he said he presumed to doubt whether this was the case. From the continent of Europe he believed that we could receive no instruction. Their Parliaments, after the overthrow of the Roman empire, were not constructed upon the principle of a representation of the people. The conqueror of a given district of the country was, by the feudal system, the prince or king of the people within his conquered territories. When he wished the advice of any persons, he summoned usually a number of his principal officers, or the barons of his kingdom, to give him their counsel; but the people, or, as they were degradingly called, the vassals, were never consulted. This certainly

cannot be considered as a representation of the people. This mode of assembling a Parliament probably obtained in the early stages of the English history; but those who have written on this subject agree that their information is very imperfect, relative to the origin of English Parliaments; they are not certain who composed the Parliament, how long they held their office, or concerning what points they were consulted.

Nothing clear on this subject appears before the 12th century. Magna Charta is the foundation of the imperfect representation of England. Improvements have since been made in favor of the more equal and certain representation of the people; but it is still extremely imperfect and insecure. Perhaps the people of America are the first, who, by the social compact, ever obtained a right to a full and fair representation, in making the laws of their country.

If, then, [continued Mr. K.,] history can afford little or no instruction on this subject, the Convention must determine the question upon its own principles. It seems proper that the representative should be in office time enough to acquire that information which is necessary to form a right judgment; but that the time should not be so long as to remove from his mind the powerful check upon his conduct, that arises from the frequency of elections, whereby the people are enabled to remove an unfaithful representative, or to continue a faithful one. If the question is examined by this standard, perhaps it will appear that an election for two years is short enough for a representative in Congress. If one year is necessary for a representative to be useful in the state legislature, where the objects of his deliberations are local, and within his constant observation, two years do not appear too long, where the objects of deliberation are not confined to one state, but extend to thirteen states; where the complicated interests of united America are mingled with those of foreign nations; and where the great duties of national sovereignty will require his constant attention. When the representatives of the colony of Massachusetts were first chosen, the country was not settled more than twenty miles from Boston; they then held their offices for one year. The emigrants from Massachusetts, who settled on Connecticut River, appointed the representatives to meet in the General Court of that colony for only six months

Massachusetts, although her settlements have extended over almost her whole territory, has continued to depute representatives for only one year, and Connecticut for only six months; but as, in each of these colonies, when under the British government, the duties of the representatives were merely local, the great duties of sovereignty being vested in their king, so, since the revolution, their duties have continued local, many of the authorities of sovereignty being vested in Congress. It is now proposed to increase the powers of Congress; this will increase the duties of the representatives, and they must have a reasonable time to obtain the information necessary to a right discharge of their office.

It has been said that our ancestors never relinquished the idea of annual elections: this is an error. In 1643, the colonies of Plymouth, Massachusetts, Connecticut, and New Haven, united in a confederacy, which continued about forty years; each colony sent two commissioners as their representatives, and by the articles they were to be annually elected. About the year 1650, the General Court of Massachusetts instructed their commissioners to propose that the elections, instead of being annual, should be only once in three years. The alteration did not take place, but the anecdote proves that our ancestors have not had a uniform predilection for annual elections.

Mr. K. concluded by observing that, on a candid examination of this question, he presumed that the Constitution would not be objected to on account of the biennial election of the House of Representatives.

Judge DANA. Mr. President, the feeble state of my health will not permit me to enter so largely into the debates of this house, as I should be otherwise inclined to do. The intention of my rising, at present, is to express my perfect acquiescence in the sentiments advanced by the honorable gentleman from Newburyport, [Mr. King,] in favor of *the expediency of biennial elections* of our federal representatives. From my own experience, I think them preferable to *annual* elections. I have, sir, seen gentlemen in Congress, and delegates from this state too, sitting in that honorable body, without a voice; without power to open their mouths, or lift up their hands, when matters of the highest importance to their state have been under consideration. I have seen members in Congress, for the space of three months, with-

out power, sir, waiting for evidence of their reëlection. Besides, sir, that the more *frequent* elections are, the oftener states will be exposed to be deprived of their voice and influence in national councils. I think annual elections are too short for so extensive an empire. They keep the members always travelling about; and I am of opinion that elections for two years are in no way subversive of the liberties of the *people*. I, sir, am one of the people, thank God! and am happy in having an opportunity of expressing my personal satisfaction of such elections. For these and a variety of other reasons, Mr. D. suggested that he thought this state ought to be the first to adopt this method of elections.

The Hon. Mr. WHITE still thought that Congress might perpetuate themselves, and so reign emperors over us.

Hon. Mr. GORHAM observed, (in continuation of Mr. Dana's observation,) that there was not now a Congress; although the time of their meeting had considerably elapsed. Rhode Island, Connecticut, and several other states, had not gone on; that there was now only five states in Congress, when there ought to have been thirteen two months ago.

Mr. CARNES rose to confirm it, and accordingly read part of a letter from the Hon. Mr. Otis, the purport of which was, that there was much business to do; that only five states were represented, and that the probability of Indian war, &c., evinced the great necessity of the establishment of an efficient federal government, which will be the result of the adoption of the proposed Constitution.

Dr. TAYLOR rose to answer two objections which had been made against annual elections: The *distance of place* was not so great but the delegates might reach Philadelphia in a fortnight; and as they were answerable to the people for their conduct, he thought it would prevent a *vacancy*, and concluded by saying, he did not conceive the arguments in favor of *biennial* elections well founded.

A letter from the Hon. Elbridge Gerry, informing that he would attend the Convention, agreeable to their vote of yesterday, was received and read.

On motion of Mr. NASON, *Ordered*, That a committee be appointed to provide a more convenient place for the Convention to sit in.

WEDNESDAY, *January 16.* — The 2d part of the 2d section of the 3d article was read at the table. a desultory

conversation ensued on the mode of conducting the discussion ; it was *again* agreed, that, in the debate on any paragraph, gentlemen might discuss any other part they might suppose had relation to that under consideration.

Mr. PIERCE, (from Partridgefield,) after reading the 4th section, wished to know the opinion of gentlemen on it, as Congress appeared thereby to have a power to regulate the *time, place, and manner* of holding elections. In respect to the manner, said Mr. P., suppose the legislature of this state should prescribe that the choice of the federal representatives should be in the same manner as that of governor,—a majority of all the votes in the state being necessary to make it such,—and Congress should deem it an improper *manner*, and should order that it be as practised in several of the Southern States, where the highest number of votes make a choice ;—have they not power by this section to do so ? Again, as to the *place*, continues Mr. P., may not Congress direct that the election for Massachusetts shall be held in Boston ? and if so, it is possible that, previous to the election, a number of the electors may meet, agree upon the eight delegates, and propose the same to a few towns in the vicinity, who, agreeing in sentiment, may meet on the day of election, and carry their list by a major vote. He did not, he said, say that this would be the case ; but he wished to know if it was not a possible one. As the federal representatives, who are to form the democratical part of the general government, are to be a check on the representatives of the sovereignty, the senate, he thought the utmost caution ought to be used to have their elections as free as possible. He observed that, as men have ever been fond of power, we must suppose they ever will continue so ; and concluded by observing, that our caution ought in the present case to be greater, as, by the proposed Constitution, no qualification of property was required in a representative ; and it might be in the power of some people thereby to choose a bankrupt for a representative, in order to give such representatives employment, or that he might make laws favorable to such a description of the people.

Gen. PORTER (from Hadley) endeavored to obviate the objections of Mr. Pierce, by showing the almost *impossibility* of Congress making a law whereby eight men could be elected, as Mr. Pierce had supposed ; and he thought it

equally impossible for the people to choose a person to take care of their property, who had none himself.

Mr. BISHOP rose, and observed that, by the 4th section, Congress would be enabled to control the elections of representatives. It has been said, says he, that this power was given in order that refractory states may be made to do their duty. But if so, sir, why was it not so mentioned? If that was the intention, he asked why the clause did not run thus: "The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but," *if any state shall refuse or neglect so to do*, "Congress may," &c. This, he said, would admit of no prevarication. I am, says Mr. B., for giving Congress as much power to do good as possible. It has been said, Mr. President, that the conduct of Rhode Island, in recalling its delegates from Congress, has demonstrated the necessity of such a power being lodged in Congress. I have been informed by people belonging to Rhode Island, sir, that that state never has recalled her delegates from Congress. I do not believe it has. And I call upon the gentleman who mentioned it to authenticate the fact.

The Hon. Mr. KING rose, and assured the Convention that the state of Rhode Island did, by a solemn resolution, some time since, recall its delegates from Congress.

The Hon. Mr. GORHAM confirmed what Mr. K. had said, and added, that, during the session of the federal Convention, when seven states only were represented in Congress, application was made by two companies for the purchase of lands, the sale of which would have sunk seven or eight millions of dollars of the Continental debt, and the most pressing letters were sent on to Rhode Island to send on its delegates; but that state refused: the consequence was, the contract could not then be made.

Mr. BISHOP confessed himself convinced of the fact. He proceeded to observe, that, if the states shall refuse to do their duty, then let the power be given to Congress to oblige them to do it. But if they do their duty, Congress ought not to have the power to control elections. In an uncontrolled representation, says Mr. B., lies the security of freedom; and he thought by these clauses, that that freedom was sported with. In fact, says he, the moment we give Congress this power, the liberties of the yeomanry of

this country are at an end. But he trusted they would never give it; and he felt a consolation from the reflection.

The 4th section, which provides that the state legislatures shall prescribe the time, place, and manner of holding elections, and that Congress may at any time make or alter them, except in those of senators, [*though not in regular order,*] under deliberation.

The Hon. Mr. STRONG followed Mr. Bishop, and pointed out the necessity there is for the 4th section. The power, says he, to regulate the elections of our federal representatives must be lodged somewhere. I know of but two bodies wherein it can be lodged—the *legislatures of the several states, and the general Congress*. If the legislative bodies of the states, who must be supposed to know at what time, and in what place and manner, the elections can best be held, should so appoint them, it cannot be supposed that Congress, by the power granted by this section, will alter them; but if the legislature of a state should refuse to make such regulations, the consequence will be, that the representatives will not be chosen, and the general government will be dissolved. In such case, can gentlemen say that a power to remedy the evil is not necessary to be lodged somewhere? And where can it be lodged but in Congress? I will consider its advantage in another respect. We know, sir, that a negligence in the appointment of rulers is the characteristic of all nations. In this state, and since the establishment of our present constitution, the first officers of government have been elected by less than one tenth part of the electors of the state. We also know that our town meetings, for the choice of officers, are generally attended by an inconsiderable part of the qualified voters. People attend so much to their private interest, that they are apt to neglect this right. Nations have lost their liberties by neglecting their privileges; consequently Congress ought to have an interposing power to awaken the people when thus negligent. Even supposing, sir, the provisional clause suggested by the worthy gentleman from Norton should be added, would not Congress then be the judges whether the elections in the several states were constitutional and proper? If so, it will then stand on the same ground it now does. It appears evident that there must be a general power to regulate general elections. Gentlemen have said, the proposed Constitution was in some

places ambiguous. I wish they would point out the particular instances of ambiguity; for my part, I think the whole of it is expressed in the plain, common language of mankind. If any parts are not so explicit as they could be, it cannot be attributed to any design; for I believe a great majority of the men who formed it were sincere and honest men.

Mr. BISHOP said the great difficulty with him was, that the power given by the 4th section was unlimited; and he did not yet see that any advantage would arise from its being so.

Mr. CABOT, (of Beverly,) not having spoken upon the question of biennial elections of representatives, begged leave to revert to that subject, so far as to add to what had been said by others, that we should consider the particular business which that body will be frequently called upon to transact, especially in the way of revenue. We should consider that, on a question of supplies of money to support a war, or procure a treaty, it will be impossible for those representatives to judge of the expediency or in expediency of such supplies, until they shall have had time to become acquainted with the general system of federal politics, in its connection or relation to foreign powers; because upon the situation of those must depend the propriety or impropriety of granting supplies. If to this be added a due attention to the easiest way of raising such supplies, it must appear that biennial elections are as frequent as is consistent with using the power of the representatives for the benefit of their constituents.

Mr. C. then turned to the 4th section, now under debate, and said, It gives me pain to see the anxiety of different gentlemen concerning this paragraph under consideration, as it evinces a conviction in their minds of what I believe to be true—that a free and equal representation is the best, if not the only foundation upon which a free government can be built; and, consequently, that the greatest care should be taken in laying it. I am, sir, one of *the people*; such I shall continue; and, with their feelings, I hold “that the *right* of electing persons to represent the *people* in the federal government, is an important and sacred right.” The opinions that have been offered upon the manner in which the exercise of this right is provided for by the 4th section, satisfies me that we are all solicitous for the same end, and that we only differ as to the means of attaining it; and for my own part,

I confess that I prize the 4th section as highly as any in the Constitution; because I consider the *democratic* branch of the national government, the branch chosen immediately for the people, as intended to be a *check* on the *federal* branch, which latter is not an immediate representation of the people of America, and is not chosen by them, but is a representation of the sovereignty of the individual states, and its members delegated by the several state legislatures; and if the state legislatures are suffered to regulate conclusively the elections of the democratic branch, they may, by such an interference, first weaken, and at last destroy, that check, they may at first diminish, and finally annihilate, that control of the general government, which the people ought always to have through their immediate representatives. As one of the *people*, therefore, I repeat, that, in my mind, the 4th section is to be as highly prized as any in the Constitution.

Mr. PARSONS contended for vesting in Congress the powers contained in the 4th section, not only as those powers were necessary for preserving the union, but also for securing to the people their equal rights of election. He considered the subject very fully; but we are able to give our readers very imperfectly the heads of his speech. In the Congress, not only the sovereignty of the states is represented in the Senate, but, to balance their power, and to give the people a suitable and efficient check upon them, the federal representatives are introduced into Congress. The legislatures of the several states are the constituents of the Senate, and the people are the constituents of the Representatives. These two branches, therefore, have different constituents, and as they are designed as mutual checks upon each other, and to balance the legislative powers, there will be frequent struggles and contentions between them. The Senate will wish to control, depress, and render inefficient the Representatives; the same disposition in the Representatives towards the Senate, will produce the like exertions on their part. The Senate will call upon their constituents, the legislatures, for aid; the Representatives will look up to the people for support. If, therefore, the power of making and altering the regulations defined in this section, is vested absolutely in the legislature, the Representatives will very soon be reduced to an undue dependence upon the Senate, because the power of influencing and controlling the election

of the representatives of the people, will be exerted without control by the constituents of the senators. He further observed, that there was much less danger in trusting these powers in Congress, than in the state legislatures. For if the federal representatives wished to introduce such regulations as would secure to them their places, and a continuance in office, the federal Senate would never consent, because it would increase the influence and check of the Representatives; and, on the other hand, if the Senate were aiming at regulations to increase their own influence by depressing the Representatives, the consent of the latter would never be obtained; and no other regulations would ever obtain the consent of both branches of the legislature, but such as did not affect their neutral rights and the balance of government; and those regulations would be for the benefit of the people. But a state legislature, under the influence of their senators, who would have their fullest confidence, or under the influence of ambitious or popular characters, or in times of popular commotion, and when faction and party spirit run high, would introduce such regulations as would render the rights of the people insecure and of little value. They might make an unequal and partial division of the states into districts for the election of representatives, or they might even disqualify one third of the electors. Without these powers in Congress, the people can have no remedy; but the 4th section provides a remedy, a controlling power in a legislature, composed of senators and representatives of twelve states, without the influence of our commotions and factions, who will hear impartially, and preserve and restore to the people their equal and sacred rights of election. Perhaps it then will be objected, that from the supposed opposition of interests in the federal legislature, they may never agree upon any regulations; but regulations necessary for the interests of the people can never be opposed to the interests of either of the branches of the federal legislature; because that the interests of the people require that the mutual powers of that legislature should be preserved unimpaired, in order to balance the government. Indeed, if the Congress could never agree on any regulations, then certainly no objection to the 4th section can remain; for the regulations introduced by the state legislatures will be the governing rule of elections, until Congress can agree upon alterations.

Mr. WIDGERY insisted that we had a right to be jealous of our rulers, who ought never to have a power which they could abuse. The 4th section ought to have gone further; it ought to have had the provision in it mentioned by Mr. Bishop; there would then be a mutual check. And he still wished it to be further explained. The worthy gentleman contested the similitude made by the honorable gentleman from Newburyport, between the power to be given to Congress by the 4th section, to compel the states to send representatives, and the power given to the legislatures by our own constitution, to oblige towns to send representatives to the General Court, by observing that the case was materially different; as, in the latter, if any town refuses to send representatives, a power of *fining* such towns only is given. It is in vain, said Mr. Widgery, to say that rulers are not subject to passions and prejudices. In the late General Court, of which I was a member, I would willingly have deprived the three western counties from sending delegates to this house, as I *then* thought it necessary. But, sir, what would have been the consequence? A large part of the state would have been deprived of their dearest privileges. I mention this, sir, to show the force of passion and prejudice.

The Hon. Mr. WHITE said, we ought to be jealous of rulers. All the godly men we read of have failed; nay, he would not trust a "flock of Moseses." If we give up this section, says he, there is nothing left. Suppose the Congress should say that none should be electors but those worth 50 or a £100 sterling; cannot they do it? Yes, said he, they can; and if any lawyer (alluding to Mr. Parsons) can beat me out of it, I will give him ten guineas.

Col. JONES (of Bristol) thought, by this power to regulate elections, Congress might keep themselves in to all duration.

The Rev. Mr. PERLEY wished Mr. Gerry might be asked some questions on this section. [But Mr. Gerry was not in the house.]

Mr. J. C. JONES said, it was not right to argue the *possibility of the abuse of any measure* against its adoption. The power granted to Congress by the 4th section, says he, is a *necessary* power; it will provide against *negligence* and *dangerous designs*. The senators and representatives of

this state, Mr. President, are now chosen by a small number of electors ; and it is likely we shall grow equally negligent of our federal elections ; or, sir, a state may *refuse* to send to Congress its representatives, as Rhode Island has done. Thus we see its necessity.

To say that the power may be abused, is saying what will apply to all *power*. The federal representatives will represent *the people* ; they will be *the people* ; and it is not *probable* they will abuse themselves. Mr. J. concluded with repeating, that the arguments against this power could be urged against any power whatever.

Dr. JARVIS. Many gentlemen have inferred from the right of regulating elections, by the 4th section, being invested in the federal head, that the powers of wresting this essential privilege from the people would be equally delegated. But it appeared to him, he said, that there is a very material distinction in the two cases ; for, however possible it may be that this controlling authority may be abused, it by no means followed that Congress, in any situation, could strip the people of their right to a direct representation. If he could believe in this, he should readily join in sentiment with gentlemen on the other side of the house, that this section alone would be a sufficient objection to the Constitution itself. The right of election, founded on the principle of equality, was, he said, the basis on which the whole superstructure was erected ; this right was inherent in the people ; it was unalienable in its nature, and it could not be destroyed without presuming a power to subvert the Constitution, of which this was the principal ; and by recurring to the 2d section, it would appear that "*representatives and direct taxes shall be apportioned among the several states according to their respective numbers ;*" it equally appeared that 30,000 inhabitants were entitled to send a representative, and that wherever this number was found, they would have a right to be represented in the federal legislature. If it was argued that Congress might abuse their power, and, by varying the places of election, distress the people ; it could only be observed, that such a wanton abuse could not be supposed ; but, if it could go to the annihilation of the right, he contended the people would not submit. He considered the Constitution as an elective democracy, in which the sovereignty still rested in the people, and he by no means could

believe that this article was so alarming in its nature, or dangerous in its tendency, as many gentlemen had supposed.

Mr. HOLMES, in reply to Dr. Jarvis, said, the worthy gentleman's superstructure must fall to the ground; for the Constitution does not provide that every 30,000 shall send a representative, but that it shall not exceed one for every 30,000.

THURSDAY, *January 17.*—The 4th section still under deliberation.

Hon. Mr. TURNER. Mr. President, I am pleased with the ingenuity of some gentlemen in defence of this section. I am so impressed with the love of our liberty, so dearly bought, that I heartily acquiesce to compulsory laws, for the people ought to be obliged to attend to their interest. But I do not wish to give Congress a power which they can abuse; and I wish to know whether such a power is not contained in this section? I think it is. I now proceed, sir, to the consideration of an idea, that Congress may alter the place for choosing representatives in the general Congress: they may order that it may be at the extremity of a state, and, by their influence, may there prevail that persons may be chosen, who otherwise would not; by reason that a part of the qualified voters, in part of the state, would be so incommoded thereby, as to be debarred from their right as much as if they were bound at home. If so, such a circumstance would militate against the Constitution, which allows every man to vote. Altering the *place* will put it so far in the power of Congress, as that the representatives chosen will not be the true and genuine representatives of the people, but creatures of the Congress; and so far as they are so, so far are the people deprived of their rights, and the choice will be made in an irregular and unconstitutional manner. When this alteration is made by Congress, may we not suppose whose reëlection will be provided for? Would it not be for those who were chosen before? The great law of self-preservation will prevail. It is true, they might, one time in a hundred, provide for a friend; but most commonly for themselves. But, however honorable the Convention may be who proposed this article, I think it is a genuine power for Congress to perpetuate themselves—a power that cannot be unexceptionably exercised in any case whatever. Knowing the numerous arts that designing men are

prone to, to secure their election and perpetuate themselves, it is my hearty wish that a rotation may be provided for. I respect and revere the Convention who proposed this Constitution. In order that the power given to Congress may be more palatable, some gentlemen are pleased to hold up the idea, that we may be blessed with sober, solid, upright men in Congress. I wish that we may be favored with such rulers; but I fear they will not all, if most, be the best moral or political characters. It gives me pain, and I believe it gives pain to others, thus to characterize the country in which I was born. I will endeavor to guard against any injurious reflections against my fellow-citizens. But they must have their true characters; and if I represent them wrong, I am willing to make concessions. I think that the operation of paper money, and the practice of privateering, have produced a gradual decay of morals; introduced pride, ambition, envy, lust of power; produced a decay of patriotism, and the love of commutative justice; and I am apprehensive these are the invariable concomitants of the luxury in which we are unblestedly involved, almost to our total destruction. In the lower ranks of people, luxury and avarice operate to the want of public duty and the payment of debts. These demonstrate the necessity of an energetic government. As people become more luxurious, they become more incapacitated for governing themselves. And are we not so? Alike people, alike prince. But suppose it should so happen, that the administrators of this Constitution should be preferable to the corrupt mass of the people, in point of manners, morals, and rectitude; power will give a keen edge to the principles I have mentioned. Ought we not, then, to put all checks and controls on governors for the public safety? Therefore, instead of giving Congress powers they may not abuse, we ought to withhold our hands from granting such as must be abused if exercised. This is a general observation. But to the point; at the time of the restoration, the people of England were so vexed and worn down by the *anarchical* and confused state of the nation, owing to the commonwealth not being well digested, that they took an opposite career; they run mad with loyalty, and would have given Charles any thing he could have asked. Pardon me, sir, if I say I feel the want of an energetic government, and the dangers to which this dear

country is reduced, as much as any citizen of the United States; but I cannot prevail on myself to adopt a government which wears the face of power, without examining it. Relinquishing a *hair's breadth* in a constitution, is a great deal; for by small degrees has liberty, in all nations, been wrested from the hands of the people. I know great powers are necessary to be given to Congress, but I wish they may be well guarded.

Judge SUMNER, remarking on Gen. Thompson's frequent exclamation of "*O my country!*" expressed from an apprehension that the Constitution would be adopted, said, that expression might be used with great propriety, should this Convention reject it. The honorable gentleman then proceeded to demonstrate the necessity of the 4th section; the absurdity of the supposition that Congress would remove the places of election to remote parts of the states; combated the idea that Congress would, when chosen, act as bad as possible; and concluded by asking, if a war should take place, (and it was supposable,) if France and Holland should send an army to collect the millions of livres they have lent us in the time of our distresses, and that army should be in possession of the seat of government of any particular state, (as was the case when Lord Cornwallis ravaged Carolina,) and that the state legislature could not appoint electors, — is not a power to provide for such elections necessary to be lodged in the general Congress?

Mr. WIDGERY denied the statement of Dr. Jarvis (that every 30,000 persons can elect one representative) to be just, as the Constitution provides that the number *shall not exceed* one to every 30,000; it did not follow, he thought, that the 30,000 shall elect one. But, admitting that they have a right to choose one, — we will suppose Congress should order an election to be in Boston in January, and from the scarcity of money, &c., not a fourth part could attend; would not three quarters of the people be deprived of their right?

Rev. Mr. WEST. I rise to express my astonishment at the arguments of some gentlemen against this section. They have only started *possible* objections. I wish the gentlemen would show us that what they so much deprecate is *probable*. Is it probable that we shall choose men to ruin us? Are we to object to all governments? and because pow-

er *may* be abused, shall we be reduced to anarchy and a state of nature? What hinders our state legislatures from abusing their powers? They may violate the Constitution; they may levy taxes oppressive and intolerable, to the amount of all our property. An argument which proves too much, it is said, proves nothing. Some say Congress may remove the place of elections to the state of South Carolina. This is inconsistent with the words of the Constitution, which says, "*that the elections, in each state, shall be prescribed by the legislature thereof,*" &c., and that representation be apportioned according to numbers; it will frustrate the end of the Constitution, and is a reflection on the gentlemen who formed it. Can we, sir, suppose them so wicked, so vile, as to recommend an article so dangerous? Surely, gentlemen who argue these *possibilities*, show they have a very weak cause. That we may all be free from passions, prepossessions, and party spirit, I sincerely hope; otherwise, reason will have no effect. I hope there are none here but who are open to conviction, as it is the surest method to gain the suffrage of our consciences. The honorable gentleman from Scituate has told us that the people of England, at the restoration, *on account of the inconveniences of the confused state of the commonwealth, run mad with loyalty*. If the gentleman means to apply this to us, we ought to adopt this Constitution; for if the people are *running mad* after an energetic government, it is best to stop now, as by this rule they may run farther, and get a worse one; therefore the gentleman's arguments turn right against himself. Is it possible that imperfect men can make a perfect constitution? Is it possible that a frame of government can be devised by such weak and frail creatures, but what must savor of that weakness? Though there are some things that I do not like in this Constitution, yet I think it necessary it should be adopted. For may we not rationally conclude, that the persons we shall choose to administer it will be, in general, good men?

Gen. THOMPSON. Mr. President, I have frequently heard of the abilities of the learned and reverend gentleman last speaking, and now I am witness to them; but, sir, one thing surprises me: it is, to hear the worthy gentleman insinuate that our federal rulers would undoubtedly be *good men*, and that, therefore, we have little to fear from their being intrusted with all power. This, sir, is quite contrarv

to the common language of the clergy, who are continually representing mankind as reprobate and deceitful, and that we really grow worse and worse day after day. I really believe we do, sir, and I make no doubt to prove it before I sit down, and from the Old Testament. When I consider the man that slew the lion and the bear, and that he was a man after *God's own heart*,—when I consider his son, blessed with *all wisdom*, and the errors they fell into,—I extremely doubt the infallibility of human nature. Sir, I suspect my own heart, and I shall suspect our rulers.

Dr. HOLTON thought this paragraph necessary to a complete system of government. [*But the honorable gentleman spoke so low that he could not be heard distinctly throughout.*]

Capt. SNOW. It has been said, Mr. President, that there is too much power delegated to Congress by the section under consideration. I doubt it; I think power the hinge on which the whole Constitution turns. Gentlemen have talked about Congress moving the place of election from Georgia to the Mohawk River; but I never can believe it. I will venture to conjecture we shall have some honest men in our Congress. We read that there were two who brought a *good report*—Caleb and Joshua. Now, if there are but two in Congress who are honest men, and Congress should attempt to do what the gentlemen say they will, (which will be *high treason*,) they will bring a *report* of it; and I stand ready to leave my wife and family, sling my knapsack, travel westward, to cut their heads off. I, sir, since the war, have had commerce with six different nations of the globe; I have inquired in what estimation America is held; and if I may believe good, honest, credible men, I find this country held in the same light, by foreign nations, as a well-behaved negro is in a gentleman's family. Suppose, Mr. President, I had a chance to make a good voyage, but I tie my captain up to such strict orders, that he can go to no other island to sell my cargo, although there is a certainty of his doing well; the consequence is, he returns, but makes a bad voyage, because he had not power enough to act his judgment; (for honest men do right.) Thus, sir, Congress cannot save us from destruction, because we tie their hands, and give them no power; (I think people have lost their privileges by not improving them;) and I like this power being

vested in Congress as well as any paragraph in the Constitution ; for, as the man is accountable for his conduct, I think there is no danger. Now, Mr. President, to take all things into consideration, something more must be said to convince me to the contrary.

[Several other gentlemen went largely into the debate on the 4th section, which those in favor of it demonstrated to be necessary ; first, as it may be used to correct a negligence in elections ; secondly, as it will prevent the dissolution of the government by designing and refractory states ; thirdly, as it will operate as a check, in favor of the people, against any designs of the federal Senate, and their constituents, the state legislatures, to deprive the people of their right of election ; and fourthly, as it provides a remedy for the evil, should any state, by invasion, or other cause, not have it in its power to appoint a place, where the citizens thereof may meet to choose their federal representatives. Those against it urged that the power is unlimited and unnecessary.]

[The committee appointed to provide a more suitable place for the Convention to sit in, reported that the meeting-house in Long Lane, in Boston, was prepared for that purpose ; whereupon, Voted, That when this Convention adjourn, they will adjourn to that place.]

Afternoon.—The second paragraph of the 2d section of the 1st article was reverted to, and some debate had thereon.

Gen. THOMPSON thought that there should have been some *qualification of property* in a representative ; for, said he when men have *nothing to lose*, they have *nothing to fear*.

Hon. Mr. SEDGWICK said, that this *objection* was founded on an anti-democratical principle, and was surprised that gentlemen who appeared so strenuously to advocate the rights of the people, should wish to exclude from the federal government a *good* man, because he was not a *rich* one.

Mr. KING said, that gentlemen had made it a question, why a qualification of property in a representative is omitted, and that they thought the provision of such a qualification necessary. He thought otherwise ; he never knew that *property* was an index to abilities. We often see men, who, though destitute of property, are superior in knowledge and rectitude. The men who have most injured the country have most commonly been rich men. Such a qualification was proposed in Convention ; but by the delegates of Massachusetts it was contested that it should not obtain. He

observed, that no such qualification is required by the Confederation. In reply to Gen. Thompson's question, why disqualification of age was not added, the honorable gentleman said, that it would not extend to all parts of the continent alike. Life, says he, in a great measure, depends on climate. What in the Southern States would be accounted *long life*, would be but the *meridian* in the Northern; what here is the time of *ripened judgment* is *old age* there. Therefore the want of such a disqualification cannot be made an objection to the Constitution.

The third paragraph of the 2d section being read,

Mr. KING rose to explain it. There has, says he, been much misconception of this section. It is a principle of this Constitution, that representation and taxation should go hand in hand. This paragraph states that the number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. These persons are the *slaves*. By this rule are representation and taxation to be apportioned. And it was adopted, because it was the language of all America. According to the Confederation, ratified in 1781, the sums for the general welfare and defence should be apportioned according to the surveyed lands, and improvements thereon, in the several states; but that it hath never been in the power of Congress to follow that rule, the returns from the several states being so very imperfect.

Dr. TAYLOR thought that the number of members to be chosen for the House of Representatives was too small. The whole Union was entitled to send but 65; whereas, by the old Confederation, they send 91—a reduction of 30 per cent. He had heard it objected, that, if a larger number was sent, the house would be unwieldy. He thought our House of Representatives, which sometimes consists of 150, was not unwieldy; and if the number of the federal representatives was enlarged to twice 65, he thought it would not be too large. He then proceeded to answer another objection, “that an increase of numbers would be an increase of expense,” and by calculation demonstrated that the salaries of the full number he wished, would, in a year, amount only to £2,980, about one penny on a poll; and by this increase, he thought every part of the commonwealth would be represented. The distresses of the people would thereby be more fully known and relieved.

Mr. WIDGERY asked, if a boy of six years of age was to be considered as a free person.

Mr. KING, in answer, said, all persons born free were to be considered as freemen; and, to make the idea of *taxation by numbers* more intelligible, said that *five negro children* of South Carolina are to pay as much tax as the three governors of New Hampshire, Massachusetts, and Connecticut.

Mr. GORHAM thought the proposed section much in favor of Massachusetts; and if it operated against any state, it was Pennsylvania, because they have more *white persons bound* than any other. Mr. G. corrected an observation of Dr. Taylor's that the states now send 91 delegates to Congress; which was not the case. The states do not, he said, send near the number, and instanced Massachusetts, which sends but four. He concluded by saying that the Constitution provides for an increase of members as numbers increase, and that in fifty years there will be 360; in one hundred years, 14 or 1500, if the Constitution last so long.

Judge DANA, remarking on the assertions of Dr. Taylor, that the *number of representatives* was too small; that the whole Union was now entitled to send but 65, whereas by the Confederation they might send 91,—a reduction of 30 per cent.,—said, if the Constitution under consideration was in fact what its opposers had often called it, a consolidation of the states, he should readily agree with that gentleman that the representation of the people was much too small; but this was a charge brought against it without any foundation in truth. So far from it, that it must be apparent to every one, that the federal government springs out of, and can alone be brought into existence by, the state governments. Demolish the latter, and there is an end of the former. Had the Continental Convention, then, doubled the representation, agreeably to that gentleman's ideas, would not the people of this Commonwealth have been the first to complain of it as an unnecessary burden laid upon them—that, in addition to their own domestic government, they have been charged with the support of so numerous a national government? Would they not have contended for the demolition of the one or the other, as being unable to support both? Would they have been satisfied by being told that doubling the representation would yearly amount only “to about one penny upon a poll”? Does not the gentleman know that

the expense of our own numerous representation has excited much ill-will against the government? Has he never heard it said among the people that our public affairs would be as well conducted by half the number of representatives? If he has not, I have, sir, and believe it to be true. But the gentleman says that there is a reduction of 30 per cent. in the federal representation, as the whole Union can send but 65, when under the Confederation they may send 91. The gentleman has not made a fair calculation. For, if to the 65 representatives under the proposed Constitution we add 2 senators from each state, amounting to 26 in all, we shall have the same number, 91; so that in this respect there is no difference. Besides, this representation will increase with the population of the states, and soon become sufficiently large to meet that gentleman's ideas. I would just observe, that by the Confederation this state has a right to send seven members to Congress; yet, although the legislature hath sometimes chosen the whole number, I believe at no time have they had, or wished to have, more than four of them actually in Congress. Have any ill consequences arisen from this small representation in the national council? Have our liberties been endangered by it? No one will say they have. The honorable gentleman drew a parallel between the Eastern and Southern States, and showed the injustice done the former by the present mode of apportioning taxes, according to surveyed land and improvements, and the consequent advantage therefrom to the latter, their property not lying in improvements, in buildings, &c.

In reply to the remark of some gentlemen, that the Southern States were favored in this mode of apportionment, by having five of their *negroes* set against *three persons* in the Eastern, the honorable judge observed, that the *negroes* of the Southern States work no longer than when the eye of the driver is on them. Can, asked he, that land flourish like this, which is cultivated by the hands of freemen? and are not *three* of these independent freemen of more real advantage to a state than *five* of those poor slaves? As a friend to equal taxation, he rejoiced that an opportunity was presented, in this Constitution, to change this unjust mode of apportionment. Indeed, concluded he, from a survey of every part of the Constitution, I think it the best that the wisdom of men could suggest.

Mr. NASSON remarked on the statement of the Hon. Mr. King, by saying that the honorable gentleman should have gone further, and shown us the other side of the question. It is a good rule that works both ways; and the gentleman should also have told us, that *three of our infants in the cradle* are to be rated as *five of the working negroes* of Virginia. Mr. N. adverted to a statement of Mr. King, who had said that five negro children of South Carolina were equally ratable as three governors of New England, and wished, he said, the honorable gentleman had considered this question upon the other side, as it would then appear that this state will pay as great a tax for three children in the cradle, as any of the Southern States will for five hearty, working negro men. He hoped, he said, while we were making a new government, we should make it better than the old one; for, if we had made a bad bargain before, as had been hinted, it was a reason why we should make a better one now.

Mr. RANDALL begged leave to answer a remark of the Hon. Mr. Dana, which, he thought, reflected on the barrenness of the Southern States. He spoke from his own personal knowledge, he said, and he could say, that the land in general, in those states, was preferable to any he ever saw.

Judge DANA rose to set the gentleman right; he said it was not the *quality* of the land he alluded to, but the *manner* of tilling it that he alluded to.

FRIDAY, January 18. — The third paragraph of the 2d section of article one still under consideration.

Hon. Mr. DALTON opened the conversation with some remarks on Mr. Randall's positive assertions of the fertility of the Southern States; who said, from his own observation, and from accounts he had seen, which were better, he could say, that the gentleman's remark was not perfectly accurate. The honorable gentleman showed why it was not so, by stating the inconsiderable product of the land, which, though it might in part be owing to the faithlessness and ignorance of the slaves who cultivate it, he said, was in a greater measure owing to the want of heart in the soil.

Mr. RANDALL. Mr. President, I rise to make an observation on the suggestion of the honorable gentleman from Newbury. I have, sir, travelled into the Southern States, and should be glad to compare our knowledge on the subject together. In Carolina, Mr. President, if they don't get

more than twenty or thirty bushels of corn from an acre, they think it a small crop. On the low lands they sometimes get forty. I hope, sir, these great men of eloquence and learning will not try to *make* arguments to make this Constitution go down, right or wrong. An old saying, sir, is, that "a good thing don't need praising;" but, sir, it takes the best men in the state to gloss this Constitution, which they say is the best that human wisdom can invent. In praise of it we hear the reverend clergy, the judges of the Supreme Court, and the ablest lawyers, exerting their utmost abilities. Now, sir, suppose all this artillery turned the other way, and these great men would speak half as much against it, we might complete our business and go home in forty-eight hours. Let us consider, sir, we are acting for the people, and for ages unborn; let us deal fairly and above board. Every one comes here to discharge his duty to his constituents, and I hope none will be biased by the best orators; because we are not acting for ourselves. I think Congress ought to have power, such as is for the good of the nation; but what it is, let a more able man than I tell us.

Mr. DAWES said, he was very sorry to hear so many objections raised against the paragraph under consideration. He thought them wholly unfounded; that the *black inhabitants* of the Southern States must be considered either as slaves, and as so much *property*, or in the character of so many freemen; if the former, why should they not be wholly represented? Our own state laws and constitution would lead us to consider these blacks as freemen, and so indeed would our own ideas of natural justice. If, then, they are freemen, they might form an equal basis for representation as though they were all white inhabitants. In either view, therefore, he could not see that the Northern States would suffer, but directly to the contrary. He thought, however, that gentlemen would do well to connect the passage in dispute with another article in the Constitution, that permits Congress, in the year 1808, wholly to prohibit the importation of slaves, and in the mean time to impose a duty of ten dollars a head on such blacks as should be imported before that period. Besides, by the new Constitution, every particular state is left to its own option totally to prohibit the introduction of slaves into its own territories. What could

the Convention do more? The members of the Southern States, like ourselves, have *their* prejudices. It would not do to abolish slavery, by an act of Congress, in a moment, and so destroy what our southern brethren consider as property. But we may say, that, although slavery is not smitten by an apoplexy, yet it has received a mortal wound, and will die of a consumption.

Mr. D. said, the paragraph in debate related only to the *rule* of apportioning internal taxes; but the gentleman had gone into a consideration of the question, whether Congress should have the power of laying and collecting such *taxes*; which, he thought, would be more properly discussed under the section relative to the *powers* of Congress; but as objections had been suggested, the answers might be hinted as we went along. By the old articles, said he, Congress have a right to ascertain what are necessary for the Union, and to appropriate the same, but have no authority to draw such moneys from the states. The states are under an *honorary* obligation to raise the moneys; but Congress cannot compel a compliance with the obligation. So long as we withhold that authority from Congress, so long we may be said to give it to other nations. Let us contemplate the loan we have made with the Dutch. Our ambassador has bound us all, jointly and severally, to pay the money borrowed. When pay-day shall come, how is the money to be raised? Congress cannot collect it. If any one state shall disobey a requisition, the Dutch are left, in such a case, to put their own demand in force for themselves. They must raise by arms what we are afraid Congress shall collect by the law of peace. There is a prejudice, said Mr. Dawes, against direct taxation, which arises from the manner in which it has been abused by the errors of the old Confederation. Congress had it not in their power to draw a revenue from commerce, and therefore multiplied their requisitions on the states. Massachusetts, willing to pay her part, made her own trade law, on which the trade departed to such of our neighbors as made no such impositions on commerce; thus we lost what little revenue we had, and our only course was, to a direct taxation. In addition to this, foreign nations, knowing this inability of Congress, have on that account been backward in their negotiations, and have lent us money at a premium which bore some proportion to the

risk they had of getting payment; and this extraordinary expense has fallen at last on the land.

Some gentlemen have said, that Congress may draw their revenue wholly by direct taxes; but they cannot be induced so to do; it is easier for them to have resort to the impost and excise; but as it will not do to overburden the impost, (because that would promote smuggling, and be dangerous to the revenue,) therefore Congress should have the power of applying, in extraordinary cases, to direct taxation. War may take place, in which case it would not be proper to alter those appropriations of impost which may be made for peace establishments. It is inexpedient to divert the public funds; the power of direct taxation would, in such circumstances, be a very necessary power. As to the rule of apportioning such taxes, it must be by the quantity of lands, or else in the manner laid down in the paragraph under debate. But the quantity of lands is an uncertain rule of wealth. Compare the lands of different nations of Europe, some of them have great comparative wealth and less quantities of lands, whilst others have more land and less wealth. Compare Holland with Germany. The rule laid down in the paragraph is the best that can be obtained for the apportionment of the little direct taxes which Congress will want.

Afternoon. — Messrs. King, Gore, Parsons, and Jones, of Boston, spoke of the advantage to the *Northern States* the rule of apportionment in the third paragraph (still under debate) gave to them; as also the Hon. Judge DANA, the sketch of whose speech is as follows: —

The learned judge began with answering some objections to this paragraph, and urging the necessity of Congress being vested with power to levy *direct taxes* on the states, and it was not to be supposed that they would levy such, unless the impost and excise should be found insufficient in case of a war. If, says he, a part of the Union is attacked by a foreign enemy, and we are disunited, how is it to defend itself? Can it by its own internal force? In the late war, this state singly was attacked, and obliged to make the first defence. What has happened may happen again. The state oppressed must exert its whole power, and bear the whole charge of the defence; but common danger points out for common exertion; and this Constitution is excellently designed to make the danger equal. Why should one

state expend its blood and treasure for the whole? Ought not a controlling authority to exist, to call forth, if necessary, the whole force and wealth of all the states? If disunited, the time may come when we may be attacked by our natural enemies. Nova Scotia and New Brunswick, filled with Tories and refugees, stand ready to attack and devour these states, one by one. This will be the case, if we have no power to draw forth the wealth and strength of the whole, for a defence of a part. Then shall we, continued the honorable gentleman, see, but too late, the necessity of a power being vested somewhere, that could command that wealth and strength when wanted. I speak with earnestness, said he, but it is for the good of my native country. By God and nature made equal, it is with remorse I have heard it suggested by some, that those gentlemen who have had the superior advantages of education, were enemies to the rights of their country. Are there any among this honorable body, who are possessed of minds capable of such narrow prejudices? If there are, it is in vain to reason with them; we had better come to a decision, and go home.

After dilating on this matter a short time, the learned judge begged gentlemen to look around them, and see who were the men that composed the assembly. Are they not, he asked, men who have been foremost in the cause of their country, both in the cabinet and in the field? and who, with halts about their necks, boldly and intrepidly advocated the rights of America, and of humanity, at home and in foreign countries? And are they not to be trusted? Direct *taxation* is a tremendous idea; but may not necessity dictate it to be unavoidable? We all wish to invest Congress with more power. We disagree only in the quantum, and manner, in which Congress shall levy taxes on the states. A capitation tax is abhorrent to the feelings of human nature, and, I venture to trust, will never be adopted by Congress. The learned judge pointed out, on various grounds, the utility of the power to be vested in the Congress, and concluded by observing, that the proposed Constitution was the best that could be framed; that, if adopted, we shall be a great and happy nation; if rejected, a weak and despised one; we shall fall as the nations of ancient times have fallen; that this was his firm belief; and, said he, I would rather be annihilated than give my voice for, or sign my name to, a

constitution which in the least should betray the liberties or interests of my country.

Mr. WIDGERY. I hope, sir, the honorable gentleman will not think hard of it, if we ignorant men cannot see as clear as he can. The strong must bear with the infirmities of the weak; and it must be a weak mind indeed that could throw such illiberal reflections against gentlemen of education, as the honorable gentleman complains of. To return to the paragraph. If Congress, continued Mr W., have this power of taxing directly, it will be in their power to enact a poll tax. Can gentlemen tell why they will not attempt it, and by this method make the poor pay as much as the rich?

Mr. DENCH was at a loss to know how Congress could levy the tax, in which he thought the difficulty of money consisted; yet had no doubt but that Congress would direct that these states should pay it *in their own way*.

The Hon. Mr. FULLER begged to ask Mr. Gerry, "why, in the last requisition of Congress, the portion required of this state was thirteen times as much as of Georgia; and yet we have but eight representatives in the general government, and Georgia has three." Until this question was answered, he was at a loss to know how taxation and representation went hand in hand.

[It was then voted that this question be asked Mr. Gerry. A long and desultory debate ensued on the manner in which the answer should be given: it was at last voted that Mr. G. reduce his answer to writing.]

SATURDAY, January 19, 1788, A. M. — The Hon. Mr. SINGLETARY thought we were giving up all our privileges, as there was no provision that men in power should have any *religion*; and though he hoped to see Christians, yet, by the Constitution, a Papist, or an Infidel, was as eligible as they. It had been said that men had not degenerated; he did not think men were better now than when men after God's own heart did wickedly. He thought, in this instance, we were giving great power to we know not whom.

Gen. BROOKS, (of Medford.) — If good men are appointed, government will be administered well. But what will prevent bad men from mischief, is the question. If there should be such in the Senate, we ought to be cautious of

giving power; but when that power is given, with proper checks, the danger is at an end. When men are answerable, and within the reach of responsibility, they cannot forget that their political existence depends upon their good behavior. The Senate can frame no law but by consent of the Representatives, and is answerable to that house for its conduct. If that conduct excites suspicion, they are to be impeached, punished, (or prevented from holding any office, which is great punishment.) If these checks are not sufficient, it is impossible to devise such as will be so.

[Mr. Gerry's answer to Mr. Fuller's question was read. The purport is, that Georgia had increased in its numbers by emigration; and if it had not then, would soon be entitled to the proportion assigned her.]

Hon. Mr. KING. It so happened that I was both of the Convention and Congress at the same time; and if I recollect right, the answer of Mr. G. does not materially vary. In 1778, Congress required the states to make a return of the houses and lands surveyed; but one state only complied therewith—New Hampshire. Massachusetts did not. Congress consulted no rule: it was resolved that the several states should be taxed according to their ability, and if it appeared any state had paid more than her just quota, it should be passed to the credit of that state, with lawful interest.

Mr. DALTON said we had obtained a great deal by the new Constitution. By the Confederation each state had an equal vote. Georgia is now content with three eighths of the voice of Massachusetts.

Col. JONES, (of Bristol,) objected to the length of time. If men continue in office four or six years, they would forget their dependence on the people, and be loath to leave their places. Men elevated so high in power, they would fall heavy when they came down.

Mr. AMES observed, that an objection was made against the Constitution, because the senators are to be chosen for *six years*. It has been said, that they will be removed too far from the control of the people, and that, to keep them in proper dependence, they should be chosen annually. It is necessary to premise, that no argument against the new plan has made a deeper impression than this, that it will produce a consolidation of the states. This is an effect which all good men will deprecate. For it is obvious, that,

if the state powers are to be destroyed, the representation is too small. The trust, in that case, would be too great to be confided to so few persons. The objects of legislation would be so multiplied and complicated, that the government would be unwieldy and impracticable. The state governments are essential parts of the system, and the defence of this article is drawn from its tendency to their preservation. The *senators* represent the *sovereignty of the states*; in the other house, individuals are represented. The Senate may not originate bills. It need not be said that they are principally to direct the affairs of wars and treaties. They are in the quality of ambassadors of the states, and it will not be denied that some permanency in their office is necessary to a discharge of their duty. Now, if they were chosen yearly, how could they perform their trust? If they would be brought by that means more immediately under the influence of the people, then they will represent the state legislatures less, and become the representatives of individuals. This belongs to the other house. The absurdity of this, and its repugnancy to the federal principles of the Constitution, will appear more fully, by supposing that they are to be chosen by the people at large. If there is any force in the objection to this article, this would be proper. But whom, in that case, would they represent?—Not the legislatures of the states, but the people. This would totally obliterate the federal features of the Constitution. What would become of the state governments, and on whom would devolve the duty of defending them against the encroachments of the federal government? A consolidation of the states would ensue, which, it is conceded, would subvert the new Constitution, and against which this very article, so much condemned, is our best security. Too much provision cannot be made against a consolidation. The state governments represent the wishes, and feelings, and local interests, of the people. They are the safeguard and ornament of the Constitution; they will protract the period of our liberties; they will afford a shelter against the abuse of power, and will be the natural avengers of our violated rights.

A very effectual *check* upon the power of the Senate is provided. A third part is to retire from office every two years. By this means, while the senators are seated for six years, they are admonished of their responsibility to the state

legislatures. If one third new members are introduced, who feel the sentiments of their states, they will awe that third whose term will be near expiring. This article seems to be an excellence of the Constitution, and affords just ground to believe that it will be, in practice as in theory, a *federal* republic.

Afternoon. — The third section respecting the *construction of the Senate* under debate, —

Col. JONES said his objections still remained — that *senators* chosen for so long a time will forget their duty to their constituents. We cannot, said he, recall them. The choice of *representatives* was too long; the Senate was much worse; it is, said he, a bad precedent, and is unconstitutional.

Mr. KING said, as the Senate preserved the equality of the states, their appointment is equal. To the objection to this branch, that it is chosen for too long a period, he observed, if the principle of classing them is considered, although it appears long, it will not be found so long as it appears. One class is to serve two years, another four years, and another *six years*; the average, therefore, is four years. The *senators*, said Mr. K., will have a powerful check in those men who wish for their seats, who will watch their whole conduct in the general government, and will give the alarm in case of misbehavior. And the state legislatures, if they find their delegates erring, can and will instruct them. Will not this be a check? When they hear the voice of the people solemnly dictating to them their duty, they will be bold men indeed to act contrary to it. These will not be *instructions* sent them in a private letter, which can be put in their pockets; they will be public instructions, which all the country will see, and they will be hardy men indeed to violate them. The honorable gentleman said, the powers to control the Senate are as great as ever was enjoyed in any government; and that the members, therefore, will be found not to be chosen for too long a time. They are, says he, to assist the executive in the designation and appointment of officers; and they ought to have time to mature their judgments. If for a shorter period, how can they be acquainted with the rights and interests of nations, so as to form advantageous treaties? To understand these rights is the business of education. Their business being naturally dif-

ferent, and more extensive, than the other branch, they ought to have different qualifications; and their duration is not too long for a right discharge of their duty.

Dr. TAYLOR said, he hoped the honorable gentleman did not mean to deceive us, by saying, that the Senate are not to be chosen for six years; for they really are to be chosen for six years; and as to the idea of classing, he did not know who, when chosen for that time, would go out at a shorter. He remarked on Mr. King's idea of checks, and observed, that such indeed were the Articles of Confederation, which provide for delegates being chosen annually; for rotation, and the right of recalling. But in this, they are to be chosen for six years; but a shadow of rotation provided for, and no power to recall; and concluded by saying, that if they are once chosen, they are chosen forever.

Mr. STRONG mentioned the difficulty which attended the construction of the Senate in the Convention; and that a committee, consisting of one delegate from each state, was chosen to consider the subject, who reported as it now stands; and that Mr. Gerry was on the committee from Massachusetts.

Mr. GERRY rose, and informed the president that he was then preparing a letter on the subject in debate; and would set the matter in its true light; and which he wished to communicate. This occasioned considerable conversation, which lasted until the Convention adjourned.

MONDAY, *January 21.* — Fourth section considered in its order.

Mr. AMES rose to answer several *objections*. He would forbear, if possible, to go over the ground which had been already well trodden. The fourth section had been, he said, well discussed, and he did not mean to offer any formal argument or new observations upon it. It had been said, the power of regulating *elections* was given to Congress. He asked, if a motion was brought forward in Congress, on that particular, subjecting the states to any inconvenience, whether it was probable such a motion could obtain. It has been also said, that our federal legislature would endeavor to perpetuate themselves in office; and that the love of power was predominant. Mr. Ames asked how the gentlemen prevailed on themselves to trust the state legislature. He thought it was from a degree of confidence that was placed in them. At present we trust

Congress with power; nay, we trust the representatives of Rhode Island and Georgia. He thought it was better to trust the general government than a foreign state. Mr. A. acknowledged he came with doubts of the fourth section. Had his objections remained, he would have been obliged to vote against the Constitution; but now he thought, if all the Constitution was as clear as this section, it would meet with little opposition.

Judge DANA. This section, Mr. President, has been subject to much dispute and difficulty. I did not come here approving of every paragraph of this Constitution. I supposed this clause dangerous; it has been amply discussed; and I am now convinced that this paragraph is much better as it stands, than with the amendment, which is, that Congress be restricted in the appointing of "*time, place, &c.*," unless when the state legislatures refuse to make them. I have altered my opinion on this point; these are my reasons:— It is apparent, the intention of the Convention was to set Congress on a different ground; that a part should proceed directly from the people, and not from their substitutes, the legislatures; therefore the legislature ought not to control the elections. The legislature of Rhode Island has lately formed a plan to alter their representation to corporations, which ought to be by numbers. Look at Great Britain, where the injustice of this mode is apparent. Eight tenths of the people there have no voice in the elections. A borough of but two or three cottages has a right to send two representatives to *Parliament*, while Birmingham, a large and populous manufacturing town, lately sprung up, cannot send one. The legislature of Rhode Island are about adopting this plan, in order to deprive the towns of Newport and Providence of their weight, and that thereby the legislature may have a power to counteract the will of a majority of the people.

Mr. COOLEY (of Amherst) thought Congress, in the present instance, would, from the powers granted by the Constitution, have authority to control elections, and thereby endanger liberty.

Dr. TAYLOR wished to ask the gentleman from Newburyport, whether the two branches of Congress could not agree to play into each other's hands; and, by making the *qualifications* of electors £100 by their power of regulating

elections, fix the matters of elections so as to keep themselves in.

Hon. Mr. KING rose to pursue the inquiry why the "*place and manner*" of holding elections were omitted in the section under debate. It was to be observed, he said, that, in the Constitution of Massachusetts and other states, the *manner and place* of elections were provided for; the manner was by ballot, and the places, towns; for, said he, we happened to settle originally in townships. But it was different in the Southern States: he would mention an instance. In Virginia, there are but fifteen or twenty towns, and seventy or eighty counties; therefore no rule could be adopted to apply to the whole. If it was practicable, he said, it would be necessary to have a district the fixed place; but this is liable to exceptions; as a district that may now be fully settled, may in time be scarcely inhabited; and the back country, now scarcely inhabited, may be fully settled. Suppose this state thrown into eight *districts*, and a member apportioned to each; if the numbers increase, the representatives and districts will be increased. The matter, therefore, must be left subject to the regulation of the state legislature, or the general government. Suppose the state legislature, the circumstances will be the same. It is truly said, that our representatives are but a part of the Union; that they may be subject to the control of the rest; but our representatives make a ninth part of the whole; and if any authority is vested in Congress, it must be in our favor. But to the subject. In Connecticut they do not choose by numbers, but by corporations. Hartford, one of their largest towns, sends no more delegates than one of their smallest corporations, each town sending two, except latterly, when a town was divided. The same rule is about to be adopted in Rhode Island. The inequality of such representation, where every corporation would have an equal right to send an equal number of representatives, was apparent. In the Southern States, the inequality is greater. By the constitution of South Carolina, the city of Charleston has a right to send thirty representatives to the General Assembly; the whole number of which amounts to two hundred. The back parts of Carolina have increased greatly since the adoption of their constitution, and have frequently attempted an alteration of this unequal mode of representation; but the mem-

bers from Charleston, having the balance so much in their favor, will not consent to an alteration; and we see that the delegates from Carolina in Congress have always been chosen by the delegates of that city. The representatives, therefore, from that state, will not be chosen *by the people*, but will be the representatives of a faction of that state. If the general government cannot control in this case, how are the people secure? The idea of the honorable gentleman from Douglass, said he, transcends my understanding; for the power of control given by this section extends to the *manner* of election, not the *qualifications* of the electors. The qualifications are age and residence, and none can be preferable.

On motion, *Resolved*, as follows, viz.: —

Whereas there is a publication in "The Boston Gazette, and the Country Journal," of this day, as follows, viz.: —

"Bribery and Corruption!!!"

"The most diabolical plan is on foot to corrupt the members of the Convention, who oppose the adoption of the new Constitution. Large sums of money have been brought from a neighboring state for that purpose, contributed by the wealthy. If so, is it not probable there may be collections for the same accursed purpose nearer home?"

"CENTINEL."

Resolved, That this Convention will take measures for inquiring into the subject of the said publication, and for ascertaining the truth or falsehood of the suggestion therein contained.

Ordered, That the messenger be directed to request the printers of the said Gazette to appear before this Convention forthwith, to give information respecting the said publication.

Afternoon. — The messenger informed the Convention that he had acquainted the printers of the Boston Gazette, &c., of the order of the forenoon respecting them, and was answered that one of them would attend the convention this afternoon.

A letter from Messrs. Benjamin Edes and Son, printers of the Boston Gazette, &c., relative to the publication entered this morning. Read, and committed to Mr. Parsons, Mr. Nasson, Mr. Gorham, Mr. Widgery, Mr. Porter, Mr. Gore, and Mr. Thomas of Plymouth.

The 5th section being read, —

Dr. TAYLOR wished to know the meaning of the words “from time to time,” in the third paragraph. Does it mean, says he, from year to year, from month to month, or from day to day?

The Hon. Mr. KING rose, and explained the term.

Mr. WIDGERY read the paragraph, and said, by the words, “except such parts as may require secrecy,” Congress might withhold the whole *journals* under this pretence, and thereby the people be kept in ignorance of their doings.

The Hon. Mr. GORHAM exposed the absurdity of any public body *publishing* all their *proceedings*. Many things in great bodies are to be kept secret, and records must be brought to maturity before published. In case of treaties with foreign nations, would it be policy to inform the world of the extent of the powers to be vested in our ambassador, and thus give our enemies opportunity to defeat our negotiations? There is no provision in the constitution of this state, or of Great Britain, for any publication of the kind; and yet the people suffer no inconveniency. The printers, no doubt, will be interested to obtain the journals as soon as possible for publication, and they will be published in a book, by Congress, at the end of every session.

Rev. Mr. PERLEY described the alarms and anxiety of the people at the commencement of the war, when the whole country, he said, cried with one voice, “Why don’t General Washington march into Boston, and drive out the tyrants?” But, said he, Heaven gave us a commander who knew better than to do this. The reverend gentleman said, he was acquainted with the Roman history, and the Grecian too, and he believed there never was, since the creation of the world, a greater general than Washington, except, indeed, Joshua, who was inspired by the Lord of Hosts, the God of the armies of Israel. Would it, he asked, have been prudent for that excellent man, General Washington, previous to the American army’s taking possession of Dorchester Heights, to have published to the world his intentions of doing so? No, says he, it would not.

The first paragraph of the 6th section read.

Dr. TAYLOR. Mr. President, it has hitherto been customary for the gentlemen of Congress to be *paid* by the

several state legislatures out of the state treasury. As no state has hitherto failed paying its delegates, why should we leave the good old path? Before the revolution it was considered as a grievance that the governors, &c., received their pay from Great Britain. They could not, in that case, feel their dependence on the people, when they received their appointments and salaries from the crown. I know not why we should not pay them now, as well as heretofore.

Gen. PORTER. Have not delegates been retained from Congress, which is virtually recalling them, because they have not been paid? Has not Rhode Island failed to pay their delegates? Should there not be an equal charge throughout the United States, for the payment of the delegates, as there is in this state for the payment of the members of this Convention, met for the general good? Is it not advantageous to the people at large, that the delegates to this Convention are paid out of the public treasury? If any inconvenience, however, can be shown to flow from this plan, I should be glad to hear it.

Hon. Mr. SEDGWICK hoped gentlemen would consider that the federal officers of government would be responsible for their conduct; and, as they would regard their reputations, will not assess exorbitant wages. In Massachusetts, and in every other state, the legislatures have power to provide for their own payment; and, he asked, have they ever established it higher than it ought to be? But, on the contrary, have they not made it extremely inconsiderable? The commons of Great Britain, he said, have the power to assess their own wages; but for two centuries they have never exercised it. Can a man, he asked, who has the least respect for the good opinion of his fellow-countrymen, go home to his constituents, after having robbed them by voting himself an exorbitant salary? This principle will be a most powerful check; and in respect to economy, the power lodged as it is in this section will be more advantageous to the people than if retained by the state legislatures. Let us see what the legislature of Massachusetts have done; they vote the salaries of the delegates to Congress, and they have voted them such as have enabled them to live in style suited to the dignity of a respectable state; but these salaries have been four times as much, for the same time, as they

ever voted themselves. Therefore, concluded the honorable gentleman, if left to themselves to provide for their own payment, as long as they wish for the good opinion of mankind, they will assess no more than they really deserve, as a compensation for their services.

Hon. Mr. KING said, if the arguments on the 4th section against an undue control, in the state legislatures, over the federal representatives, were in any degree satisfactory, they are so on this.

Gen. THOMPSON. Mr. President, the honorable gentleman means well, and is honest in his sentiments; it is all alike. When we see matters at large, and what it all is, we will know what to do with it.

Mr. PARSONS. In order that the general government should preserve itself, it is necessary it should preserve justice between the several states. Under the Confederation, the power of this section would not be just; for each state has a right to send seven members to Congress, though some of them do not pay one tenth as much of the public expenses as others. It is a mere federal government of states, neither equal nor proportionate. If gentlemen would use the same candor that the honorable gentleman from Topsham (Gen. Thompson) does, considering all the parts as connected with others, the Constitution would receive a better discussion.

The second paragraph of the 6th section read.

Mr. GORHAM said that this Constitution contained restrictions which were not to be found in any other; and he wished gentlemen who had objected to every paragraph which had been read, would give to the Convention credit for those parts which must meet the approbation of every man.

The 8th section of article 1, containing the *powers of Congress*, being read, —

Gen. BROOKS (of Lincoln) said this article contained more matter than any one yet read; and he wished to know whether there are not to be some general restrictions to the general articles.

Mr. KING. Mr. President, it is painful for me to obtrude my sentiments on the Convention so frequently. However, sir, I console myself with the idea that my motives are as good as those of more able gentlemen, who have

remained silent. Sir, this is a very important clause, and of the highest consequence to the future fortune of the people of America. It is not my intention to go into any elaborate discussion of the subject. I shall only offer those considerations which have influenced my mind in favor of the article, in the hope that it may tend to reconcile gentlemen to it. It shall not be with a view of exhibiting any particular knowledge of mine ; for such is not my intention. Hitherto we have considered the construction of the general government. We now come, sir, to the consideration of the powers with which that government shall be clothed. The introduction to this Constitution is in these words : "*We, the people,*" &c. The language of the Confederation is, "*We, the states,*" &c. The latter is a mere federal government of states. Those, therefore, that assemble under it, have no power to make laws to apply to the individuals of the states confederated ; and the attempts to make laws for collective societies necessarily leave a discretion to comply with them or not. In no instance has there been so frequent deviation from first principles, as in the neglect or refusal to comply with the requisitions of general governments for the collection of moneys.

In the ancient governments, this has been the principal defect. In the United Provinces of the Netherlands, it has been conspicuously so. A celebrated political writer—I mean *John Dewitt*, formerly pensioner of Holland—said that, in the confederacy of 1570, though the articles were declared equally binding on the several provinces, yet any one had it in its power to comply with the requisitions of the generality or not ; and some provinces, taking advantage of this discretionary power, never paid any thing. During forty years of war with Spain, the province of Holland paid fifty-eight parts of a hundred of all the expenses thereof. Two or three of the provinces never so much as passed a resolution to pay any thing ; and *Dewitt* says that two of them paid not a single guilder. What was the consequence ? In one instance, Holland compelled a neighboring province to comply with the requisitions, by marching a force into it. This was a great instance of usurpation, made in the time of a war. The Prince of Orange, and the generality, found that they could not continue the war in this manner. What was to be done ? They were obliged to resort to the ex-

pedient of *doubling* the ordinary requisitions on the states. Some of the provinces were prevailed upon to grant these requisitions fully, in order to induce Holland to do the same. She, seeing the other states appearing thus forward, not only *granted* the requisitions, but *paid* them. The others did not. Thus was a single province obliged to bear almost the whole burdens of the war; and, one hundred years after, the accounts of this war were unsettled. What was the reason? Holland had but one voice in the States-General. That voice was feeble when opposed by the rest.

This fact is true. The history of our own country is a melancholy proof of a similar truth. Massachusetts has paid while other states have been delinquent. How was the war carried on with the paper money? Requisitions on the states for that money were made. Who paid them? Massachusetts and a few others. A requisition of 29,000,000 dollars were quotaed on Massachusetts, and it was paid. This state has paid in her proportion of the old money. How comes it, then, that gentlemen have any of this money by them? Because the other states have shamefully neglected to pay their quotas. Do you ask for redress? You are scoffed at. The next requisition was for 11,000,000 of dollars, 6,000,000 of which were to be paid in facilities, the rest in silver money, for discharging the interest of the national debt. If the legislatures found a difficulty in paying the hard money, why did they not pay the paper? But 1,200,000 dollars have been paid. And six states have not paid a farthing of it.

After mentioning another requisition, equally disregarded, Mr. King said, two states have not paid a single farthing from the moment they signed the Confederation to this day, if my documents are to be depended on, and they are open to the inspection of all. Now, sir, what faith is to be put in requisitions on the states, for moneys to pay our domestic creditors, and discharge our foreign debts, for moneys lent us in the day of difficulty and distress? Sir, experience proves, as well as any thing can be proved, that no dependence can be placed on such requisitions. What method, then, can be devised to compel the delinquent states to pay their quotas? Sir, I know of none. Laws, to be effective, therefore, must not be laid on states, but upon individuals. Sir, it has been objected to the proposed Constitution, that

the power is too great, and by this Constitution is to be sacred. But if the want of power is the *defect in the old Confederation*, there is a fitness and propriety in adopting what is here proposed, which gives the necessary power wanted. Congress now have power to call for what moneys, and in what proportion, they please ; but they have no authority to compel a compliance therewith. It is an objection in some gentlemen's minds, that Congress should possess the power of the *purse* and the *sword*. But, sir, I would ask, whether any government can exist, or give security to the people, which is not possessed of this power. The first revenue will be raised from the impost, to which there is no objection, the next from the excise ; and if these are not sufficient, direct taxes must be laid. To conclude, sir, if we mean to support an efficient federal government, which, under the old Confederation, can never be the case, the proposed Constitution is, in my opinion, the only one that can be substituted.

Hon. Mr. WHITE said, in giving this power, we give up every thing ; and Congress, with the purse-strings in their hands, will use the sword with a witness.

Mr. DAWES said, he thought the powers in the paragraph under debate should be fully vested in Congress. We have suffered, said he, for want of such authority in the federal head. This will be evident if we take a short view of our agriculture, commerce, and manufactures. Our *agriculture* has not been encouraged by the imposition of national duties on rival produce ; nor can it be, so long as the several states may make contradictory laws. This has induced our farmers to raise only what they wanted to consume in their own families ; I mean, however, after raising enough to pay their own taxes ; for I insist that, upon the old plan, the land has borne the burden ; for, as Congress could not make laws, whereby they could obtain a revenue, in their own way, from *impost* or *excise*, they multiplied their requisition on the several states. When a state was thus called on, it would perhaps impose new duties on its own trade, to procure money for paying its quota of federal demands. This would drive the trade to such neighboring states as made no such new impositions ; thus the revenue would be lost with the trade, and the only resort would be a direct tax.

As to *commerce*, it is well known that the different states

now pursue different systems of duties in regard to each other. By this, and for want of general laws of prohibition through the Union, we have not secured even our own domestic traffic that passes from state to state. This is contrary to the policy of every nation on earth. Some nations have no other commerce. The great and flourishing empire of China has but little commerce beyond her own territories; and no country is better circumstanced than we for an exclusive traffic from state to state; yet even in this we are rivalled by foreigners—by those foreigners to whom we are the least indebted. A vessel from Roseway or Halifax finds as hearty a welcome with its fish and whalebone at the southern ports, as though it was built, navigated, and freighted from Salem or Boston. And this must be the case, until we have laws comprehending and embracing alike all the states in the Union.

But it is not only our coasting trade—our whole *commerce* is going to ruin. Congress has not had power to make even a trade law, which shall confine the importation of foreign goods to the ships of the producing or consuming country. If we had such a law, we should not go to England for the goods of other nations; nor would British vessels be the carriers of American produce from our sister states. In the states southward of the Delaware, it is agreed that three fourths of the produce are exported, and three fourths of the returns are made, in British bottoms. It is said that, for exporting timber, one half the property goes to the carrier; and of the produce in general, it has been computed that, when it is shipped for London from a southern state, to the value of one million of dollars, the British merchant draws from that sum three hundred thousand dollars under the names of freight and charges. This is money which belongs to the New England states, because we can furnish the ships as well as, and much better than, the British. Our sister states are willing that we should receive these benefits, and that they should be secured to us by national laws; but until this is done, their private merchants will, no doubt, for the sake of long credit, or some other such temporary advantage, prefer the ships of foreigners; and yet we have suffered these ignominious burdens, rather than trust our own representatives with power to help us; and we call ourselves free and independent states! We are independent of each other, but we are slaves to Europe. We

have no uniformity in duties, imposts, excises, or prohibitions. Congress has no authority to withhold advantages from foreigners, in order to obtain advantages from them. By the 9th of the old articles, Congress may enter into treaties and alliances under certain provisos; but Congress cannot pledge that a single state shall not render the whole treaty of commerce a nullity.

Our manufactures are another great subject, which has received no encouragement by national duties on foreign manufactures, and they never can by any authority in the Confederation. It has been said that no country can produce manufactures until it be overstocked with inhabitants. It is true that the United States have employment, except in the winter, for their citizens in agriculture — the most respectable employment under heaven; but it is now to be remembered, that, since the old Confederation, there is a great emigration of foreign artisans hither, some of whom are left here by the armies of the last war, and others who have more lately sought the new world, from hopes of mending their condition; these will not change their employments. Besides this, the very face of our country leads to manufactures. Our numerous falls of water, and places for mills, where paper, snuff, gunpowder, iron works, and numerous other articles, are prepared, — these will save us immense sums of money, that would otherwise go to Europe. The question is, Have these been encouraged? Has Congress been able, by national laws, to prevent the importation of such foreign commodities as are made from such raw materials as we ourselves raise? It is alleged that the citizens of the United States have contracted debts within the last three years, with the subjects of Great Britain, for the amount of near six millions of dollars, and that consequently our lands are mortgaged for that sum. So Corsica was once mortgaged to the Genoese merchants for articles which her inhabitants did not want, or which they could not have made themselves; and she was afterwards sold to a foreign power. If we wish to encourage our own manufactures, to preserve our own commerce, to raise the value of our own lands, we must give Congress the powers in question.

The honorable gentleman from Norton, last speaking, says, that, if Congress will have the power of laying and collecting *taxes*, they will use the power of the sword. I hold

the reverse to be true. The doctrine of requisitions, or of demands upon a whole state, implies such a power; for surely a whole state, a whole community, can be compelled only by an army; but taxes upon an individual imply only the use of a collector of taxes. That Congress, however, will not apply to the power of *direct taxation*, unless in cases of emergency, is plain; because, as thirty thousand inhabitants will elect a representative, eight tenths of which electors perhaps are yeomen, and holders of farms, it will be their own faults if they are not represented by such men as will never permit the land to be injured by unnecessary taxes.

Mr. BODMAN said, that the power given to Congress, to lay and collect duties, taxes, &c., as contained in the section under consideration, was certainly unlimited, and therefore dangerous; and wished to know whether it was necessary to give Congress power to do harm, in order to enable them to do good. It had been said, that the *sovereignty of the states* remains with them; but if Congress has the power to lay taxes, and, in cases of negligence or non-compliance, can send a power to collect them, he thought that the idea of sovereignty was destroyed. This, he said, was an essential point, and ought to be seriously considered. It has been urged that gentlemen were jealous of their rulers. He said, he thought they ought to be so; it was just they should be so; for jealousy was one of the greatest securities of the people in a republic. The power in the 8th section, he said, ought to have been defined; that he was willing to give power to the federal head, but he wished to know what that power was.

Mr. SEDGWICK, in answer to the gentleman last speaking, said, if he believed the adoption of the proposed Constitution would interfere with the state legislatures, he would be the last to vote for it; but he thought all the sources of revenue ought to be put into the hands of government, who were to protect and secure us; and powers to effect this had always been necessarily unlimited. Congress would necessarily take that which was easiest to the people; the first would be impost, the next excise; and a direct tax will be the last; for, said the honorable gentleman, drawing money from the people, by direct taxes, being difficult and uncertain, it would be the last source of revenue applied to by a

wise legislature ; and hence, said he, the people may be assured that the delegation of a power to levy them would not be abused. Let us suppose, — and we shall not be thought extravagant in the supposition, — continued Mr. S., that we are attacked by a foreign enemy ; that in this dilemma our treasury was exhausted, our credit gone, our enemy on our borders, and that there was no possible method of raising impost or excise ; in this case, the only remedy would be a direct tax. Could, therefore, this power, being vested in Congress, lessen the many advantages which may be drawn from it ?

Mr. SINGLETARY thought no more power could be given to a despot, than to give up the purse-strings of the people.

Col. PORTER asked, if a better rule of yielding power could be shown than in the Constitution ; for what we do not give, said he, we retain.

Gen. THOMPSON. Mr. President, I totally abhor this paragraph. Massachusetts has ever been a leading state ; now let her give good advice to her sister states. Suppose nine states adopt this Constitution ; who shall touch the other four ? Some cry out, Force them. I say, Draw them. We love liberty. Britain never tried to enslave us until she told us we had too much liberty. The Confederation wants amendments ; shall we not amend it ?

The Convention were sent on to Philadelphia to amend this Confederation ; but they made a new creature ; and the very setting out of it is unconstitutional. In the Convention, Pennsylvania had more members than all New England, and two of our delegates only were persuaded to sign the Constitution. Massachusetts once shut up the harbors against the British. There, I confess, I was taken in. Don't let us be in a hurry again. Let us wait to see what our sister states will do. What shall we suffer if we adjourn the consideration of it for five or six months ? It is better to do this than adopt it so hastily. Take care we don't disunite the states. By uniting we stand, by dividing we fall.

Major KINGSLEY. Mr. President, after so much has been said on the powers to be given to Congress, I shall say but a few words on the subject. By the Articles of Confederation the people have three checks on their delegates in Congress — the *annual election* of them, their *rotation*, and the

power to recall any, or all of them, when they see fit. In view of our federal rulers, they are the servants of the people. In the new Constitution, we are deprived of annual elections, have no rotation, and cannot recall our members; therefore our federal rulers will be masters, and not servants. I will examine what powers we have given to our masters. They have power to lay and collect all taxes, duties, imposts, and excises; raise armies; fit out navies; to establish themselves in a federal town of ten miles square, equal to four middling townships; erect forts, magazines, arsenals, &c. Therefore, should the Congress be chosen of designing and interested men, they can perpetuate their existence, secure the resources of war, and the people will have nothing left to defend themselves with. Let us look into ancient history. The Romans, after a war, thought themselves safe in a government of ten men, called the *decemviri*; these ten men were invested with all power, and were chosen for three years. By their arts and designs, they secured their second election; but, finding, from the manner in which they had exercised their power, they were not able to secure their third election, they declared themselves masters of Rome, impoverished the city, and deprived the people of their rights.

It has been said that there was no such danger here. I will suppose they were to attempt the experiment, after we have given them all our money, established them in a federal town, given them the power of coining money and raising a standing *army*, and to establish their arbitrary government; what resources have the people left? I cannot see any. The Parliament of England was first chosen annually; they afterwards lengthened their duration to three years; and from triennial they became septennial. The government of England has been represented as a good and happy government; but some parts of it their greatest political writers much condemn; especially that of the duration of their Parliaments. Attempts are yearly made to shorten their duration, from septennial to triennial; but the influence of the ministry is so great that it has not yet been accomplished. From this duration, bribery and corruption are introduced. Notwithstanding they receive no pay, they make great interest for a seat in Parliament, one or two years before its dissolution, and give from five to twenty guineas for a vote; and

the candidates sometimes expend £10,000 to £30,000. Will a person throw away such a fortune, and waste so much time, without the probability of replacing such a sum with interest? Or can there be security in such men? Bribery may be introduced here as well as in Great Britain; and Congress may equally oppress the people; because we cannot call them to an account, considering that there is no annual election, no rotation, no power to recall them, provided for.

TUESDAY, *January 22.*—Section 8th still under consideration.

Judge SUMNER. The powers proposed to be delegated in this section are very important, as they will, in effect, place the purse-strings of the citizens in the hands of Congress for certain purposes. In order to know whether such powers are necessary, we ought, sir, to inquire what the design of uniting under one government is. It is that the national dignity may be supported, its safety preserved, and necessary debts paid. Is it not necessary, then, to afford the means by which alone those objects can be attained? Much better, it appears to me, would it be for the states not to unite under one government, which will be attended with some expense, than to unite, and at the same time withhold the powers necessary to accomplish the design of the union. Gentlemen say, *the power to raise money* may be abused. I grant it; and the same may be said of any other delegated power. Our General Court have the same power; but did they ever dare abuse it? Instead of voting themselves 6s. 8d., they might vote themselves £12 a day; but there never was a complaint of their voting themselves more than what was reasonable. If they should make an undue use of their power, they know a loss of confidence in the people would be the consequence, and they would not be reëlected; and this is one security in the hands of the people. Another is, that all *money bills* are to originate with the House of Representatives. And can we suppose the representatives of Georgia, or any other state, more disposed to burden their constituents with taxes, than the representatives of Massachusetts? It is not to be supposed; for, whatever is for the interest of one state, in this particular, will be the interest of all the states, and no doubt attended to by the House of Representatives. But why should we

alarm ourselves with imaginary evils? An impost will probably be a principal source of revenue ; but if that should be insufficient, other taxes, especially in time of war, ought to supply the deficiency. It is said that requisitions on the states ought to be made in cases of emergency ; but we all know there can be no dependence on requisitions. The honorable gentleman from Newburyport gave us an instance from the history of the United Provinces to prove it, by which it appears they would have submitted to the arms of Spain, had it not been for the surprising exertions of one province. But there can be no need of recurring to ancient records, when the history of our country furnishes an instance where requisitions have had no effect. But some gentlemen object further, and say the delegation of these great powers *will destroy the state legislatures* ; but I trust this never can take place, for the general government depends on the state legislatures for its very existence. The President is to be chosen by electors under the regulation of the state legislature ; the Senate is to be chosen by the state legislatures ; and the representative body by the people, under like regulations of the legislative body in the different states. If gentlemen consider this, they will, I presume, alter their opinion ; for nothing is clearer than that the existence of the legislatures, in the different states, is essential to the *very being* of the general government. I hope, sir, we shall all see the necessity of a federal government, and not make objections, unless they appear to us to be of some weight.

Mr. GORE. This section, Mr. President, has been the subject of many observations, founded on real or pretended jealousies of the powers herein *delegated* to the general government ; and, by comparing the proposed Constitution with things in their nature totally different, the mind may be seduced from a just determination on the subject. Gentlemen have compared the authority of Congress to levy and collect taxes from the people of America to a similar power assumed by the Parliament of Great Britain. If we but state the relation which these two bodies bear to America, we shall see that no arguments drawn from one can be applicable to the other. The House of Commons, in the British Parliament, which is the only popular branch of that assembly, was composed of men, chosen exclusively by the

inhabitants of Great Britain, in no sort amenable to, or dependent upon, the people of America, and secured, by their local situation, from every burden they might lay on this country. By impositions on this part of the empire, they might be relieved from their own taxes, but could in no case be injured themselves. The Congress of the United States is to be chosen, either mediately or immediately, by the people. They can impose no burdens but what they participate in common with their fellow-citizens. The senators and representatives, during the time for which they shall be elected, are incapable of holding any office which shall be created, or the emoluments thereof be increased, during such time. This is taking from candidates every lure to office, and from the administrators of the government every temptation to create or increase emoluments to such degree as shall be burdensome to their constituents.

Gentlemen, who candidly consider these things, will not say that arguments against the assumption of power by Great Britain can apply to the Congress of the United States. Again, sir, it has been said, that because ten men of Rome, chosen to compile a body of laws for that people, remained in office after the time for which they were chosen, therefore the Congress of America will perpetuate themselves in government. The *decemviri*, in their attainment to their exalted station, had influence enough over the people to obtain a temporary sovereignty, which superseded the authority of the senate and the consuls, and gave them unlimited control over the lives and fortunes of their fellow-citizens. They were chosen for a year. At the end of this period, under pretence of not having completed their business, they, with the alteration of some few of their members, were continued for another year. At the end of the second year, notwithstanding the business for which they were chosen was completed, they refused to withdraw from their station, and still continued in the exercise of their power. But to what was this owing? If history can be credited, it was to an idea universally received by the Roman people, that the power of the magistrate was supposed to determine by his own resignation, and not by expiration of the time for which he was chosen. This is one, among many instances, which might be produced of the small attainments of the Roman people in political knowledge; and I submit it, sir,

to the candor of this Convention, whether any conclusions can be fairly drawn against vesting the proposed government with the powers mentioned in this section, because the magistrates of the ancient republics usurped power, and frequently attempted to perpetuate themselves in authority.

Some gentlemen suppose it is unsafe and unnecessary to vest the proposed government with authority to "lay and collect taxes, duties, imposts, and excises." Let us strip the subject of every thing that is foreign, and refrain from likening it with governments, which, in their nature and administration, have no affinity; and we shall soon see that it is not only safe, but indispensably necessary to our peace and dignity, to vest the Congress with the powers described in this section. To determine the necessity of investing that body with the authority alluded to, let us inquire what duties are incumbent on them. To pay the debts, and provide for the common defence and general welfare of the United States; to declare war, &c.; to raise and support armies; to provide and maintain a navy;—these are authorities and duties incident to every government. No one has, or, I presume, will deny, that whatever government may be established over America, ought to perform such duties. The expense attending these duties is not within the power of calculation; the exigencies of government are in their nature illimitable; so, then, must be the authority which can meet these exigencies. Where we demand an object, we must afford the means necessary to its attainment. Whenever it can be clearly ascertained what will be the future exigencies of government, the expense attending them, and the product of any particular tax, duty, or impost, then, and not before, can the people of America limit their government to amount and fund. Some have said, that the impost and excise would be sufficient for all the purposes of government in times of peace; and that, in war, requisitions should be made on the several states for sums to supply the deficiencies of this fund. Those who are best informed suppose this sum inadequate to, and none pretend that it can exceed, the expenses of a peace establishment. What, then, is to be done? Is America to wait until she is attacked, before she attempts a preparation at defence? This would certainly be unwise; it would be courting our enemies to make war upon us. The operations of war are sudden, and call for

large sums of money ; collections from states are at all times slow and uncertain ; and, in case of refusal, the non-complying state must be coerced by arms, which, in its consequences, would involve the innocent with the guilty, and introduce all the horrors of a civil war. But, it is said, we need not fear war ; we have no enemies. Let the gentlemen consider the situation of our country ; they will find we are circumscribed with enemies from Maine to Georgia. I trust, therefore, that, upon a fair and candid consideration of the subject, it will be found indispensably requisite to peace, dignity, and happiness, that the proposed government should be vested with all the powers granted by the section under debate.

Hon. Mr. PHILLIPS, (of Boston.) I rise to make a few observations on this section, as it contains powers absolutely necessary. If social government did not exist, there would be an end of individual government. Therefore our very being depends on social government. On this article is founded the main pillar of the building ; take away this pillar, and where is your government ? Therefore, I conceive, in this view of the case, this power is absolutely necessary. There seems to be a suspicion that this power will be abused ; but is not all delegation of power equally dangerous ? If we have a castle, shall we delay to put a commander into it, for fear he will turn his artillery against us ? My concern is for the majesty of the people. If there is no virtue among them, what will the Congress do ? If they had the meekness of Moses, the patience of Job, and the wisdom of Solomon, and the people were determined to be slaves, sir, could the Congress prevent them ? If they set Heaven at defiance, no arm of flesh can save them. Sir, I shall have nothing to do in this government. But we see the situation we are in. We are verging towards destruction, and every one must be sensible of it. I suppose the New England States have a treasure offered to them better than the mines of Peru ; and it cannot be to the disadvantage of the Southern States. Great Britain and France come here with their vessels, instead of our carrying our produce to those countries in American vessels, navigated by our citizens. When I consider the extensive sea-coast there is to this state alone, so well calculated for commerce, viewing matters in this light, I would rather sink all this

continent owes me, than this power should be withheld from Congress. Mention is made that Congress ought to be restricted of the power to keep an army except in time of war. I apprehend that great mischief would ensue from such a restriction. Let us take means to prevent war, by granting to Congress the power of raising an army. If a declaration of war is made against this country, and the enemy's army is coming against us, before Congress could collect the means to withstand this enemy, they would penetrate into the bowels of our country, and every thing dear to us would be gone in a moment. The honorable gentleman from Topsham has made use of the expression, "*O my country!*" from an apprehension that the Constitution should be adopted; I will cry out, "*O my country!*" if it is not adopted. I see nothing but destruction and inevitable ruin if it is not. The more I peruse and study this article, the more convinced am I of the necessity of such a power being vested in Congress. The more I hear said against it, the more I am confirmed in my sentiments of its expediency; for it is like the pure metal—the more you rub it, the brighter it shines. It is with concern I hear the honorable gentleman from Topsham make use of language against the gentlemen of the law. Sir, I look on this order of men to be essential to the liberties and rights of the people, and whoever speaks against them as speaking against an ordinance of Heaven. Mr. President, I hope every gentleman will offer his sentiments candidly on this momentous affair; that he will examine for himself, and consider that he has not only the good of this commonwealth under consideration, but the welfare of the United States.

Dr. WILLARD entered largely into the field of ancient history, and deduced therefrom arguments to prove that where power had been trusted to men, whether in great or small bodies, they had always abused it, and that thus republics had soon degenerated into aristocracies. He instanced Sparta, Athens, and Rome. The Amphictyonic league, he said, resembled the Confederation of the United States; while thus united, they defeated Xerxes, but were subdued by the gold of Philip, who brought the council to betray the interest of their country.

Hon. Mr. GORHAM (in reply to the gentleman from Uxbridge) exposed the absurdity of conclusions and hv-

potheses, drawn from ancient governments, which bore no relation to the confederacy proposed ; for those governments had no idea of representations as we have. He, however, warned us against the evil which had ruined those states, which he thought was the want of an efficient federal government. As much as the Athenians rejoiced in the extirpation of a Lacedemonian, will, if we are disunited, a citizen of Massachusetts at the death of a Connecticut man, or a Yorker. With respect to the proposed government degenerating into an aristocracy, the honorable gentleman observed, that the nature and situation of our country rendered such a circumstance impossible ; as, from the great preponderance of the agricultural interest in the United States, that interest would always have it in its power to elect such men as would, he observed, effectually prevent the introduction of any other than a perfectly democratical form of government.

Hon. Mr. CABOT went fully into a continuation of the arguments of the honorable gentleman last up. In a clear and elegant manner, he analyzed the ancient governments mentioned by Dr. Willard, and, by comparing them with the proposed system, fully demonstrated the superiority of the latter, and in a very particular manner the proposed section under debate.

Mr. RANDALL said, the quoting of ancient history was no more to the purpose than to tell how our forefathers dug clams at Plymouth ; he feared a *consolidation* of the thirteen states. Our manners, he said, were widely different from the Southern States ; their elections were not so *free and unbiased* ; therefore, if the states were consolidated, he thought it would introduce manners among us which would set us at continual variance.

Mr. BOWDOIN pointed out other instances of dissimilarity, between the systems of the ancient republics and the proposed Constitution, than those mentioned by the honorable gentlemen from Charlestown and Beverly, in the want of the important checks in the former which were to be found in the latter ; to the want of which, in the first, was owing, he said, the usurpation which took place. He instanced the *decemviri*, who, though chosen for a short period, yet, *unchecked*, soon subverted the liberties of the Romans ; and concluded with a decided opinion in favor of the Constitution under debate.

Afternoon.—Mr. SYMMES. Mr. President, in such an assembly as this, and on a subject that puzzles the oldest politicians, a young man, sir, will scarcely dare to *think* for himself; but, if he venture to *speak*, the effort must certainly be greater. This Convention is the first representative body in which I have been honored with a seat, and men will not wonder that a scene at once so new and so august should confuse, oppress, and almost disqualify me to proceed.

Sir, I wish to bespeak the candor of the Convention—that candor, which, I know, I need but ask, to have it extended to me, while I make a few indigested observations on the paragraph now in debate. I have hitherto attended with diligence, but no great anxiety, to the reasoning of the ablest partisans on both sides of the question. Indeed, I could have wished for a more effectual, and, if I may term it so, a more *feeling* representation in the Lower House, and for a representation of the *people* in the Senate. I have been, and still am, desirous of a rotation in office, to prevent the final perpetuation of power in the same men; and I have not been able clearly to see why the *place* and *manner* of holding elections should be in the disposal of Congress.

But, sir, in my humble opinion, these things are comparative by the lesser things of the law. They, doubtless, have their influence in the grand effect, and so are essential to the system. But, sir, I view the section to which we have at length arrived, as the cement of the fabric, and this clause as the keystone, or (if I may apply the metaphor) the magic talisman, on which the fate of it depends.

Allow me, sir, to recall to your remembrance that *yesterday*, when states were in doubt about granting to Congress a 5 per cent. impost, and the simple power of regulating trade—the time when, so delicate was the patriotic mind, that power was to be transferred with a reluctant, with a sparing hand, and the most obvious utility could scarcely extort it from the people. It appears to me of some importance to consider this matter, and to demand complete satisfaction upon the question, why an unlimited power in the affair of taxation is so soon required. Is our situation so vastly different, that the powers so lately sufficient are now but the dust of the balance? I observe, sir, that many

men, who, within a few years past, were strenuous opposers of an augmentation of the power of Congress, are now the warmest advocates of power so large as not to admit of a comparison with those which they opposed. Cannot some of them state their reasons then, and their reasons now, that we may judge of their consistency? or shall we be left to suppose that the opinions of politicians, like those of the multitude, vibrate from one extreme to the other, and that we have no men among us to whom we can intrust the philosophic task of pointing out the golden mean?

At present, Congress have no power to lay taxes, &c., not even to compel a compliance with their requisitions. May we not suppose that the members of the great Convention had severely felt the impotency of Congress, while they were in, and, therefore, were rather too keenly set for an effectual increase of power? that the difficulties they had encountered in obtaining decent requisitions, had wrought in them a degree of impatience, which prompted them to demand the purse-strings of the nation, as if we were insolvent, and the proposed Congress were to compound with our creditors? Whence, sir, can this great, I had almost said, this bold demand have originated? Will it be said that it is but a consistent and necessary part of the general system? I shall not deny these gentlemen the praise of inventing a system completely consistent with itself, and pretty free from contradiction; but I would ask,—I shall expect to be answered,—how a system can be necessary for us, of which this is a consistent and necessary part. But, sir, to the paragraph in hand: Congress, &c. Here, sir, (however kindly Congress may be pleased to deal with us,) is a very good and valid conveyance of all the property in the United States, — to certain uses indeed, but those uses capable of any construction the trustees may think proper to make. This body is not amenable to any tribunal, and therefore this Congress can do no wrong. It will not be denied that they may tax us to any extent; but some gentlemen are fond of arguing that this body never will do any thing but what is for the common good. Let us consider that matter.

Faction, sir, is the vehicle of all transactions in public bodies; and when gentlemen know this so well, I am rather surprised to hear them so sanguine in this respect. The

prevalent faction is the body; these gentlemen, therefore, must mean that the prevalent faction will always be right, and that the true patriots will always outnumber the men of less and selfish principles. From this it would follow that no public measure was ever wrong, because it must have been passed by the majority; and so, I grant, no power ever was, or ever will be, abused. In short, we know that all governments have degenerated, and consequently have abused the powers reposed in them; and why we should imagine better of the proposed Congress than of myriads of public bodies who have gone before them, I cannot at present conceive.

Sir, we ought (I speak it with submission) to consider that what we now grant from certain motives, well grounded at present, will be exacted of posterity as a prerogative, when we are not alive, to testify the tacit conditions of the grant; that the wisdom of this age will then be pleaded by those in power; and that the cession we are now about to make will be actually clothed with the venerable habit of ancestral sanction.

Therefore, sir, I humbly presume we ought not to take advantage of our situation in point of time, so as to bind posterity to be obedient to laws they may very possibly disapprove, nor expose them to a rebellion which, in that period will very probably end only in their further subjugation.

The paragraph in question is an absolute decree of the people. The Congress *shall* have power. It does not say that they shall *exercise* it; but our necessities say they *must*, and the experience of ages say that they *will*; and finally, when the expenses of the nation, by their ambition, are grown enormous, that they will oppress and subject; for, sir, they may lay taxes, duties, imposts, and excises! One would suppose that the Convention, sir, were not at all afraid to multiply words when any thing was to be got by it. By another clause, all imposts or duties on exports and imports, wherever laid, go into the federal chest; so that Congress may not only lay imposts and excises, but all imposts and duties that are laid on imports and exports, by any state, shall be a part of the national revenue; and besides, Congress may lay an impost on the produce and manufactures of the country, which are consumed at home. And all these shall be equal through the states. Here, sir, I raise

two objections; first, that Congress should have this power. It is a universal, unbounded permission, and as such, I think, no free people ought ever to consent to it, especially in so important a matter as that of property. I will not descend, sir, to an abuse of the future Congress, until it exists; nor then, until it misbehaves; nor then, unless I dare. But I think that some certain revenue, amply adequate to all necessary purposes, upon a peace establishment, but certain and definite, would have been better; and the collection of it might have been guaranteed by every state to every other. We should then have known to what we were about to subscribe, and should have cheerfully granted it. But now we may indeed grant, but who can *cheerfully* grant he knows not what?

Again, sir, I object to the equality of these duties through the states. It matters not with me, in the present argument, which of them will suffer by this proportion. Some probably *will*, as the consumption of dutied articles will not, if we may judge from experience, be united in all.

But some say, with whom I have conversed, it was for this reason that taxes were provided; that, by their assistance, the defect of duties in some states ought to be supplied. Now, then, let us suppose that the duties are so laid, that, if every state paid in proportion to that which paid most, the duties alone would supply a frugal treasury. Some states will pay but half their proportion, and some will scarcely pay any thing. But those in general who pay the least duty, viz., the inland states, are least of all able to pay a land tax; and therefore I do not see but that this tax would operate most against those who are least able to pay it.

I humbly submit it, sir, whether, if each state had its proportion of some certain gross sum assigned, according to its numbers, and a power was given to Congress to collect the same, in case of default in the state, this would not have been a safer Constitution. For, sir, I also disapprove of the power to collect, which is here vested in Congress. It is a power, sir, to burden us with a standing army of ravenous collectors,—harpies, perhaps, from another state, but who, however, were never known to have bowels for any purpose, but to fatten on the life-blood of the people. In an age or two, this will be the case; and when the Congress shall become tyrannical, these vultures, their servants, will be the

tyrants of the village, by whose presence all freedom of speech and action will be taken away.

Sir, I shall be told that these are imaginary evils; but I hold to this maxim, that power was never given, (of this kind especially,) but it was exercised; nor ever exercised, but it was finally abused. We must not be amused with handsome probabilities; but we must be assured that we *are in no danger*, and that this Congress *could* not distress us, if they were ever so much disposed.

To pay the debts, &c.

These words, sir, I confess, are an ornament to the page, and very musical words; but they are too general to be understood as any kind of limitation of the power of Congress, and not very easy to be understood at all. When Congress have the purse, they are not confined to rigid economy; and the word *debts*, here, is not confined to debts already contracted; or, indeed, if it were, the term "general welfare" might be applied to any expenditure whatever. Or, if it could not, who shall dare to gainsay the proceedings of this body at a future day, when, according to the course of nature, it shall be too firmly fixed in the saddle to be overthrown by any thing but a general insurrection? — an event not to be expected, considering the extent of this continent; and, if it were to be expected, a sufficient reason in itself for rejecting this or any constitution that would tend to produce it.

This clause, sir, contains the very sinews of the Constitution. And I hope the universality of it may be singular; but it may be easily seen, that it tends to produce, in time, as universal powers in every other respect. As the poverty of individuals prevents luxury, so the poverty of public bodies, whether sole or aggregate, prevents tyranny. A nation cannot, perhaps, do a more politic thing than to supply the purse of its sovereign with that parsimony which results from a sense of the labor it costs, and so to compel him to comply with the genius of his people, and to conform to their situation, whether he will or not. How different will be our conduct, if we give the entire disposal of our property to a body as yet almost unknown in theory, in practice quite heterogeneous in its composition, and whose maxims are yet entirely unknown!

Sir, I wish the gentlemen who so ably advocate this in-

strument would enlarge upon this formidable clause ; and I most sincerely wish that the effect of their reasoning may be my conviction. For, sir, I will not dishonor my constituents, by supposing that they expect me to resist that which is irresistible—the force of reason. No, sir ; my constituents wish for a firm, efficient Continental government, but fear the operation of this which is now proposed. Let them be convinced that their fears are groundless, and I venture to declare in their name, that no town in the commonwealth will sooner approve the form, or be better subjects under it.

Mr. JONES (of Boston) enlarged on the various checks which the Constitution provides, and which, he said, formed a security for liberty, and prevention against power being abused ; the frequency of elections of the democratic branch ; representation apportioned to numbers ; the publication of the journals of Congress, &c. Gentlemen, he said, had compared the people of this country to those of Rome ; but, he observed, the comparison was very erroneous : the Romans were divided into two classes, the nobility and plebeians ; the nobility kept all kinds of knowledge to their own class ; and the plebeians were, in general, very ignorant, and when unemployed, in time of peace, were ever ready for revolt, and to follow the dictates of any designing patrician. But, continued the worthy gentleman, the people of the United States are an enlightened, well-informed people, and are, therefore, not easily imposed on by designing men. Our right of representation, concluded Mr. J., is much more just and equitable than the boasted one of Great Britain, whose representatives are chosen by corporations or boroughs, and those boroughs, in general, are the property, or at the disposal, of the nobility and rich gentry of the kingdom.

[The vice-president having informed the Convention, in the forenoon, that he had received a long letter from the Hon. Mr. Gerry, the same was read as soon as the Convention proceeded to business in the afternoon. When the vice-president had read the letter, Mr. Gore rose, and objected to the reading a state of facts respecting the construction of the Senate in the federal Convention, which accompanied the letter ; not, he said, “from a wish to preclude information from his own mind, or from the minds of the Convention, but from his duty to his constituents, and the desire he had to guard against infringements on the orders of the

Convention." Mr. Gore was interrupted, as being out of order, but was proceeding on his objection, when the Hon. Judge Dana begged Mr. Gore's leave to say a few words, which he did; after which he retired from the Convention, until the consideration of the letter should be gone through with.]

WEDNESDAY, *January 23.* — Mr. PIERCE rose, he said, to make a few observations on the powers of Congress, in this section.

Gentlemen, he said, in different parts of the house, (Messrs. Dalton, Phillips, and Gore,) had agreed that Congress will not lay direct taxes, except in cases of war; for that, to defray the exigencies of peace, the impost and excise would be sufficient; and, as that mode of taxation would be the most expedient and productive, it would undoubtedly be adopted. But it was necessary Congress should have power to lay direct taxes at all times, although they will not use it, because, when our enemies find they have sufficient powers to call forth all the resources of the people, it will prevent their making war, as they otherwise would. As the Hon. Mr. Phillips used this proverb, "*A stitch in time will save nine,*" his meaning, I suppose, was, that we should have war nine times, if Congress had not such powers, where we should once if they had such powers. But these arguments to me are not conclusive; for, if our enemies know they do not use such powers except in a war, although granted to them, what will be the difference if they have the powers only in the time of war? But, Mr. President, if Congress have the powers of direct taxes, in the manner prescribed in this section, I fear we shall have that mode of taxation adopted, in preference to imposts and excises; and the reasons of my fears are these: When the impost was granted to Congress in this state, I, then being a member of court, well remember the gentlemen in trade, almost with one consent, agreed that it was an unequal tax, bearing hard on them; for, although it finally was a tax on the consumer, yet, in the first instance, it was paid by persons in trade; and also that they consumed more than the landed interest of dutied articles; and nothing but necessity induced them to submit to grant said impost, as that was the only way Congress could collect money to pay the foreign debt, under the regulations they were then under; and I fear part of this

state's members in Congress, when this Constitution is adopted, will resume their own opinion, when they can lay direct taxes ; and, as Rhode Island has always been against an impost, and as they have an equal representation in the Senate, and part of Connecticut will be interested with them, and the Southern States having no manufactures of their own, and consuming much more foreign articles than the Northern, it appears to me, we are not certain of availing ourselves of an impost, if we give Congress power to levy and collect direct taxes in time of peace.

While I am up, Mr. President, I would make some observations on what has been passed over, as I think it is within the orders of the house. The Hon. Mr. Sedgwick said, if I understood him right, that, if he thought that this Constitution consolidated the union of the states, he should be the last man that should vote for it ; but I take his meaning to be this, according to the reasoning of Mr. Ames — that it is not a consolidation of the Union, because there are three branches in the Union ; and therefore it is not a consolidation of the Union ; but, sir, I think I cannot conceive of a sovereignty of power existing within a sovereign power, nor do I wish any thing in this Constitution to prevent Congress being sovereign in matters belonging to their jurisdiction ; for I have seen the necessity of their powers in almost all the instances that have been mentioned in this Convention ; and also, last winter, in the rebellion, I thought it would be better for Congress to have stilled the people, rather than the people from amongst themselves, who are more apt to be governed by temper than others, as it appeared to me we were, in the disqualifying act, as, in my opinion, we then did not keep strictly to our own constitution ; and I believe such a superior power ought to be in Congress. But I would have it distinctly bounded, that every one may know the utmost limits of it ; and I have some doubts on my mind, as to those limits, which I wish to have solved. I have also an objection as to the term for which the Senate are to be in office ; for, as the democratical branch of the federal legislature is to continue in office two years, and they are the only check on the federal, and they, the Senate, to continue in office six years, they will have an undue influence on the democratic branch ; and I think they ought not to continue in office for a longer time

than the other; and also, that, if they conduct ill, we may have a constitutional revolution in as short a period as two years, if needed. The Hon. Mr. King said, some days past, that the Senate going out by classes, if rightly considered, were not for but four years; because one third part was never more than six, another four, and a third two; therefore the medium was four; but I think that way of arguing would argue, that if they were all to go out at the end of six years, that they were but *three* years in office; because half their time they were under the age of three years, and the other half over the age of three years in office; therefore his arguing to me in that respect was not well founded.

Col. VARNUM, in answer to an inquiry, why a bill of rights was not annexed to this Constitution, said, that, by the constitution of Massachusetts, the legislature have a right to make all laws not repugnant to the Constitution. Now, said he, if there is such a clause in the Constitution under consideration, then there would be a necessity for a bill of rights. In the section under debate, Congress have an expressed power to levy taxes, &c., and to pass laws to carry their requisitions into execution: this, he said, was express, and required no bill of rights. After stating the difference between delegated power and the grant of all power, except in certain cases, the colonel proceeded to controvert the idea that this Constitution went to a consolidation of the Union. He said it was only a consolidation of strength, and that it was apparent Congress had no right to alter the internal relations of a state. The design in amending the Confederation, he said, was to remedy its defects. It was the interest of the whole to confederate against a foreign enemy, and each was bound to exert its utmost ability to oppose that enemy; but it had been done at our expense in a great measure, and there was no way to provide for a remedy, because Congress had not the power to call forth the resources of every state, nor to coerce delinquent states. But under the proposed government, those states which will not comply with equal requisitions, will be coerced; and this, he said, is a glorious provision. In the late war, said the colonel, the states of New Hampshire and Massachusetts, for two or three years, had in the field half the Continental army under General Washington. Who paid those troops? The states which raised them were called

on to pay them. How, unless Congress have a power to levy taxes, can they make the states pay their proportion? In order that this and some other states may not again be obliged to pay eight or ten times their proportion of the public exigencies, he said, this power is highly necessary to be delegated to the federal head. He showed the necessity of Congress being enabled to prepare against the attacks of a foreign enemy; and he called upon the gentleman from Andover, (Mr. Symmes,) or any other gentleman, to produce an instance where any government, consisting of three branches, elected by the people, and having checks on each other, as this has, abused the power delegated to them.

Mr. CHOATE said, that this clause gives power to Congress to levy duties, excises, imposts, &c., considering the trust delegated to Congress, that they are to "provide for the common defence, promote the general welfare," &c. If this is to be the object of their delegation, the next question is, whether they shall not be vested with powers to prosecute it. And this can be no other than an unlimited power of taxation, if that defence requires it. Mr. C. contended that it was the power of the people concentrated to a point; that, as all power is lodged in them, this power ought to be supreme. He showed the necessity of its being so, not only for our common defence, but for our advantage in settling commercial treaties. Do we wish to make a treaty with any nation of Europe, we are told we have no stability as a nation. As Congress must provide for the common defence, shall they, asked Mr. C., be confined for the impost and excise? They are alone the judges whether five or one per cent. is necessary or convenient. It has been the practice of all nations to anticipate their resources by loans; this will be the case of the United States in war; and he asked, if our resources are competent and well established, and that no doubt remained of them, whether, in that case, the individuals who have property will not cheerfully offer it for the general defence. After adverting to the idea of some, of its being a consolidation of the Union, Mr. Choate concluded by a brief display of the several checks contained, and securities for the people to be found, in this system.

Gen. THOMPSON. Sir, the question is, whether Congress shall have power. Some say that, if this section was left out, the whole would fall to the ground. I think so too,

as it is all of a piece. We are now fixing a national consolidation. This section, I look upon it, is big with mischiefs. Congress will have power to keep standing armies. The great Mr. Pitt says, standing armies are dangerous—keep your militia in order—we don't want standing armies. A gentleman said, We are a rich state: I say so too. Then why shall we not wait five or six months, and see what our sister states do? We are able to stand our ground against a foreign power; they cannot starve us out; they cannot bring their ships on the land; we are a nation of healthy and strong men; our land is fertile, and we are increasing in numbers. It is said we owe money: no matter if we do; our safety lies in not paying it—pay only the interest. Don't let us go too fast. Shall not Massachusetts be a mediator? It is my wish she may be one of the four dissenting states; then we shall be on our old ground, and shall not act unconstitutionally. Some people cry, It will be a great charge; but it will be a greater charge, and be more dangerous, to make a new one. Let us amend the old Confederation. Why not give Congress power only to regulate trade? Some say, that those we owe will fall upon us; but it is no such thing: the balance of power in the old countries will not permit it; the other nations will protect us. Besides, we are a brave and happy people. Let us be cautious how we divide the states. By uniting we stand, by dividing we fall. We are in our childhood yet: don't let us grow too fast, lest we grow out of shape. I have proved that we are a respectable people, in possession of liberty, property, and virtue, and none in a better situation to defend themselves. Why all this racket? Gentlemen say we are undone if we cannot stop up the Thames; but, Mr. President, nations will mind their own interest, and not ours. Great Britain has found out the secret to pick the subjects' pockets, without their knowing of it: that is the very thing Congress is after. Gentlemen say this section is as clear as the sun, and that all power is retained which is not given. But where is the bill of rights which shall check the power of this Congress; which shall say, *Thus far shall ye come, and no further*. The safety of the people depends on a bill of rights. If we build on a sandy foundation, is it likely we shall stand? I apply to the feelings of the Convention. There are some parts of this Constitution which I

cannot digest ; and, sir, shall we swallow a large bone for the sake of a little meat ? Some say, Swallow the whole now, and pick out the bone afterwards. But I say, Let us pick off the meat, and throw the bone away.

This section, sir, takes the purse-strings from the people. England has been quoted for their fidelity ; but did their constitution ever give such a power as is contained in this Constitution ? Did they ever allow Parliament to vote an army but for one year ? But here we are giving Congress power to vote an army for two years — to tax us without limitation ; no one to gainsay them, and no inquiry yearly, as in Britain ; therefore, if this Constitution is got down, we shall alter the system entirely, and have no checks upon Congress.

Rev. Mr. NILES wished the honorable gentleman would point out the limits to be prescribed to the powers given in this section.

Hon. Mr. BOWDOIN. Mr. President, on the subject of government, which admits of so great a variety in its parts and combinations, a diversity of opinions is to be expected ; and it was natural to suppose that, in this Convention, respectable for its numbers, but much more so for the characters which compose it, there would be a like diversity concerning the federal Constitution, that is now the subject of our consideration.

In considering it, every gentleman will reflect how inadequate to the purposes of the Union the Confederation has been. When the plan of the Confederation was formed, the enemy were invading us ; and this inspired the several states with such a spirit of union and mutual defence, that a mere requisition or recommendation of Congress was sufficient to procure the needful aids, without any power of coercion ; and for that reason, among others, no such power was given by the Confederation. But since that reason had ceased, and the idea of danger being removed by the peace, the requisitions of Congress have, in most of the states, been little regarded, notwithstanding they solemnly pledged their faith to comply with them.

This non-compliance has compelled Congress to increase the foreign debt of the Union, by procuring further loans to pay the interest and instalments due on former loans ; and in that way to preserve the public faith, which had been

pledged to foreign powers. It has compelled them, in order to prevent the consequences of a breach of faith, as relative to those powers, to enter repeatedly into those ruinous negotiations, by which "the United States jointly, and each of them in particular, together with all their lands, chattels, revenues, and products, and also the imposts and taxes already laid and raised in the same, or in time to come to be laid and raised, are for the whole," mortgaged for the repayment of those loans by instalments, and for the payment of the interest on them annually. These debts *must* be paid, *bona fide*, according to contract, or be further increased by procuring, if procurable, further loans; which, ruinous as the measure is, must be continued, unless the states empower Congress to raise money for the discharging those debts. It will not be in the power of the United States, and I am sure it will not be in their inclination, to rid themselves of those debts in the same base and ignominious manner in which a faction, in one of them, are endeavoring to get rid of theirs. To the same cause (a non-compliance with congressional requisitions) are owing the repeated but necessary breaches of public faith in regard to the payment of the federal domestic debt. And hence, as relative to the joint consolidated debt, the inefficiency of the public finances, and the bankrupt state of the federal treasury, which can never be remedied without empowering Congress to levy adequate duties and taxes. Without such a power, the accumulating debt will never be paid, but by a forcible collection, which our foreign creditors know how, and are able to apply, if, unhappily, it should be necessary. The several loans, which by contract are to be paid by instalments, will, in case of the failure of any of the stipulated payments, become, the whole of them, immediately payable; and any of the property of any of the states, whether public or private, that can be most easily come at, will, in that case, be seized and applied for that purpose.

This mode of reimbursement, or reprisal, will be upon the trade and navigation of the United States; and in proportion as ours of this state may be larger and more extensive than the trade and navigation of other states, we shall be the greatest sufferers. This ruin of our trade will involve in it not only the ruin of the mercantile part of the state, and of the numerous body of mechanics dependent upon it,

but will most essentially affect every other class of citizens, and operate most extensively to the injury of the commonwealth.

These are some of the consequences, certain and in fallible, that will flow from the denial of that power to Congress. Shall *we* then, *we* of this state, who are so much interested in this matter, deny them *that* power—a power so essential to our political happiness?

But if we attend to our trade, as it is at present, we shall find that the miserable state of it is owing to a like want of power in Congress. Other nations prohibit our vessels from entering their ports, or lay heavy duties on our exports carried thither; and we have no retaliating or regulating power over their vessels and exports, to prevent it. Hence a decrease of our commerce and navigation, and the duties and revenue arising from them. Hence an insufficient demand for the produce of our lands, and the consequent discouragement of agriculture. Hence the inability to pay debts, and particularly taxes, which by that decrease are enhanced. And hence, as the necessary result of all these, the emigration of our inhabitants. If it be asked, How are these evils, and others that might be mentioned, to be remedied? the answer is short—By giving Congress adequate and proper power. Whether such power be given by the proposed Constitution, it is left with the Conventions from the several states, and with us, who compose one of them, to determine.

In determining on this question, every gentleman will, doubtless, consider the importance of cultivating a spirit of union among ourselves, and with the several states. This spirit procured our emancipation from British tyranny; and the same spirit, by uniting us in the necessary means, must secure to us our dear-bought, blood-purchased liberty and independence, and deliver us from evils which, unless remedied, must end in national ruin. The means for effecting these purposes are within our reach; and the adoption of the proposed Constitution will give us the possession of them. Like all other human productions, it may be imperfect; but most of the imperfections imputed to it are ideal and unfounded, and the rest are of such a nature that they cannot be certainly known but by the operations of the Constitution; and if, in its operation, it should in any respect be essentially bad, it will be amended in one of the

modes prescribed by it. I say, *will* be amended, because the Constitution is constructed on such principles, that its bad effects, if any such should arise from it, will injure the members of Congress equally with their constituents; and, therefore, both of them must be equally induced to seek for, and effectuate, if possible, the requisite amendments.

There have been many objections offered against the Constitution; and of these the one most strongly urged has been, the great power vested in Congress. On this subject, I beg leave to make a few general observations, which ought to be attended to, as being applicable to every branch of that power.

It may, therefore, be observed, that the investiture of such power, so far from being an objection, is a most cogent reason for accepting the Constitution. The power of Congress, both in the legislative and executive line, is the power of the people, collected through a certain medium, to a focal point, at all times ready to be exerted for the general benefit, according as circumstances or exigencies may require. If you diminish or annihilate it, you diminish or annihilate the means of your own safety and prosperity; which means, if they were to be measured like mathematical quantities, would be in exact proportion, as the power is greater or less. But this is not the case; for power that does not reach, or is inadequate to the object, is worse than none. An exertion of *such* power would increase the evil it was intended to remove, and at the same time create a further evil, which might be a very great one — the expense of a fruitless exertion.

If we consider the objects of the power, they are numerous and important; and as human foresight cannot extend to many of them, and all of them are in the womb of futurity, the quantum of the power *cannot* be estimated. Less than the whole, as relative to federal purposes, may, through its insufficiency, occasion the dissolution of the Union, and a subjugation or division of it among foreign powers. *Their* attention is drawn to the United States; *their* emissaries are watching our conduct, particularly upon the present most important occasion; and if we should be so unhappy as to reject the federal Constitution proposed to us, and continue much longer our present weak, unenergetic federal government, their policy will probably induce them to plan a

division or partition of the states among themselves, and unite their forces to effect it.

But, however *that* may be, *this* is certain—that the respectability of the United States among foreign nations, our commerce with them on the principles of reciprocity, and our forming beneficial treaties with them on those principles, their estimation of our friendship and fear of losing it, our capacity to resent injuries, and our security against interior as well as foreign attacks, must be derived from such a power. In short, the commercial and political happiness, the liberty and property, the peace, safety, and general welfare, both internal and external, of each and all the states, depend on that power; which, as it must be applied to a vast variety of objects, and to cases and exigencies beyond the ken of human prescience, must be very great; and which *cannot* be limited without endangering the public safety.

It will be, and has been said, this great power may be abused, and, instead of protecting, may be employed by Congress in oppressing, their constituents. A possibility of abuse, as it may be affirmed of all delegated power whatever, is by itself no sufficient reason for withholding the delegation. If it were a sufficient one, no power could be delegated; nor could government of any sort subsist. The possibility, however, should make us careful, that, in all delegations of importance, like the one contained in the proposed Constitution, there should be such checks provided as would not frustrate the end and intention of delegating the power, but would, as far as it could be safely done, prevent the abuse of it; and such *checks* are provided in the Constitution. Some of them were mentioned the last evening by one of my worthy colleagues; but I shall here exhibit all of them in one view.

The two capital departments of government, the legislative and executive, in which the delegated power resides, consisting of the President, Vice-President, Senate and Representatives, are directly, and by the respective legislatures and delegates, chosen by the people.

The President, and also the Vice-President, when acting as President, before they enter on the execution of the office, shall each “solemnly swear or affirm, that he will faithfully execute the office of President of the United States, and

will, to the best of his ability, preserve, protect, and defend, the Constitution of the United States."

"The senators and representatives before mentioned, and the members of the state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this Constitution."

"The President and Vice-President, and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of, treason, bribery, or other high crimes or misdemeanors."

"No senator or representative shall, during the time for which he was elected, be appointed to any civil office, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house, during his continuance in office."

"No title of nobility shall be granted by the United States, or by any particular state; and no person holding any office of profit or trust under the United States shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state."

"The United States shall guaranty to every state in this Union a republican form of government, and shall protect each of them against invasion and domestic violence."

To these great checks may be added several other very essential ones, as, the negative which each house has upon the acts of the other; the disapproving power of the President, which subjects those acts to a revision by the two houses, and to a final negative, unless two thirds of each house shall agree to pass the returned acts, notwithstanding the President's objections; the printing the journals of each house, containing their joint and respective proceedings; and the publishing, from time to time, a regular statement and account of receipts and expenditures of all public money, none of which shall be drawn from the treasury but in consequence of appropriations made by law.

All these checks and precautions, provided in the Constitution, must, in a great measure, prevent an abuse of power, at least in all flagrant instances, even if Congress should consist wholly of men who were guided by no other principle

than their own interest. Under the influence of such checks, this would compel them to a conduct which, in the general, would answer the intention of the Constitution. But the presumption is,—and, if the people duly attend to the objects of their choice, it would be realized,—that the President of the United States and the members of Congress would, for the most part, be men, not only of ability, but of a good moral character; in which case, an abuse of power is not to be apprehended, nor any error in the government, but such as every human institution is subject to.

There is a further guard against the abuse of power, which, though not expressed, is strongly implied in the federal Constitution, and, indeed, in the constitution of every government founded on the principles of equal liberty; and that is, that those who make the laws, and particularly laws for the levying of taxes, do, in common with their fellow-citizens, fall within the power and operation of those laws.

As, then, the individuals in Congress will all share in the burdens they impose, and be personally affected by the good or bad laws they make for the Union, they will be under the strongest motives of interest to lay the lightest burdens possible, and to make the best laws, or such laws as shall not unnecessarily affect either the property or the personal rights of their fellow-citizens.

With regard to rights, the whole Constitution is a declaration of rights, which primarily and principally respect the general government intended to be formed by it. The rights of particular states, or private citizens, not being the object or subject of the Constitution, they are only incidentally mentioned. In regard to the former, it would require a volume to describe them, as they extend to every subject of legislation, not included in the powers vested in Congress; and, in regard to the latter, as all governments are founded on the relinquishment of personal rights in a certain degree, there was a clear impropriety in being very particular about them. By such a particularity the government might be embarrassed, and prevented from doing what the private, as well as the public and general, good of the citizens and states might require.

The public good, in which private is necessarily involved, might be hurt by too particular an enumeration; and the private good could suffer no injury from a deficient enumera

tion, because Congress could not injure the rights of private citizens without injuring their own, as they must, in their public as well as private character, participate equally with others in the consequences of their own acts. And by this most important circumstance, in connection with the checks above mentioned, the several states at large, and each citizen in particular, will be secured, as far as human wisdom can secure them, against the abuse of the delegated power.

In considering the Constitution, we shall consider it, in all its parts, upon those general principles which operate through the whole of it, and are equivalent to the most extensive bill of rights that can be formed.

These observations, which are principally of a general nature, but will apply to the most essential parts of the Constitution, are, with the utmost deference and respect, submitted to your candid consideration; with the hope that, as they have influenced my own mind decidedly in favor of the Constitution, they will not be wholly unproductive of a like influence on the minds of the gentlemen of the Convention.

If the Constitution should be finally accepted and established, it will complete the temple of American liberty, and, like the keystone of a grand and magnificent arch, be the bond of union to keep all the parts firm and compacted together. May this temple, sacred to liberty and virtue, sacred to justice, the first and greatest political virtue, and built upon the broad and solid foundation of perfect union, be dissoluble only by the dissolution of nature; and may this Convention have the distinguished honor of erecting one of its pillars on that lasting foundation!

Dr. TAYLOR said, the consideration of the 8th section had taken up a great deal of time; that gentlemen had repeated the same arguments over and over again; and, although the order of the Convention was, that the proposed Constitution should be considered by paragraphs, he was pleased, he said, to observe that the honorable gentleman last speaking had gone into the matter at large, and therefore he hoped that other gentlemen would take the same liberty, and that all further observations might be on the system at large.

Mr. PARSONS, (of Newburyport.) Mr. President, a great variety of supposed objections have been made against vest-

ing Congress with some of the powers defined in the 8th section. Some of the objectors have considered the powers unnecessary, and others, that the people have not the proper security that these powers will not be abused. To most of these objections, answers, convincing, in my opinion, to a candid mind, have been given. But as some of the objections have not been noticed, I shall beg the indulgence of the Convention, while I briefly consider them. And, as it is my intention to avoid all repetition, my observations will necessarily be unconnected and desultory.

It has been said that the grant in this section includes all the possessions of the people, and divests them of everything; that such a grant is impolitic; for, as the poverty of an individual guards him against luxury and extravagance, so poverty in a ruler is a fence against tyranny and oppression. Sir, gentlemen do not distinguish between the government of an hereditary aristocracy, where the interest of the governors is very different from that of the subjects, and a government to be administered for the common good by the servants of the people, vested with delegated powers by popular elections at stated periods. The federal Constitution establishes a government of the last description, and in this case the people divest themselves of nothing; the government and powers which the Congress can administer, are the mere result of a compact made by the people with each other, for the common defence and general welfare. To talk, therefore, of keeping the Congress poor, if it means anything, must mean a depriving the people themselves of their own resources. But if gentlemen will still insist that these powers are a grant from the people, and consequently improper, let it then be observed, that it is now too late to immedately the grant; it is already completed; the Congress, under the Confederation, are invested with it by solemn compact; they have powers to demand what moneys and forces they judge necessary for the common defence and general welfare — powers as extensive as those proposed in this Constitution. But it may be said, as the ways and means are reserved to the several states, they have a check upon Congress, by refusing a compliance with the requisitions. Sir, is this the boasted check? — a check that can never be exercised but by perfidy and a breach of public faith; by a violation of the most solemn stipulations? It is this check that has embar-

rassed at home, and made us contemptible abroad ; and will any honest man plume himself upon a check which an honest man would blush to exercise ?

It has been objected that the Constitution provides no religious test by oath, and we may have in power unprincipled men, atheists and pagans. No man can wish more ardently than I do that all our public offices may be filled by men who fear God and hate wickedness ; but it must remain with the electors to give the government this security. An oath will not do it. Will an unprincipled man be entangled by an oath ? Will an atheist or a pagan dread the vengeance of the Christian's God, a being, in his opinion, the creature of fancy and credulity ? It is a solecism in expression. No man is so illiberal as to wish the confining places of honor or profit to any one sect of Christians ; but what security is it to government, that every public officer shall swear that he is a Christian ? For what will then be called Christianity ? One man will declare that the Christian religion is only an illumination of natural religion, and that he is a Christian ; another Christian will assert that all men must be happy hereafter in spite of themselves ; a third Christian reverses the image, and declares that, let a man do all he can, he will certainly be punished in another world ; and a fourth will tell us that, if a man use any force for the common defence, he violates every principle of Christianity. Sir, the only evidence we can have of the sincerity of a man's religion is a good life ; and I trust that such evidence will be required of every candidate by every elector. That man who acts an honest part to his neighbor, will, most probably, conduct honorably towards the public.

It has been objected that we have not as good security against the abuse of power under the new Constitution as the Confederation gives us. It is my deliberate opinion that we have, a better security. Under the Confederation, the whole power, executive and legislative, is vested in one body, in which the people have no representation, and where the states, the large and the small states, are equally represented ; and all the checks the states have, is a power to remove and disgrace an unfaithful servant, after the mischief is perpetrated. Under this Constitution, an equal representation, immediately from the people, is introduced, who, by their negative, and the exclusive right of originating

money bills, have the power to control the Senate, where the sovereignty of the states is represented. But it has been objected that, in the old Confederation, the states could at any time recall their delegates, and there was a rotation. No essential benefit could be derived to the people from these provisions, but great inconveniences will result from them. It has been observed by a gentleman who has argued against the Constitution, that a representative ought to have an intimate acquaintance with the circumstances of his constituents, and, after comparing them with the situation of every part of the Union, so conduct as to promote the common good. The sentiment is an excellent one, and ought to be engraved on the hearts of every representative. But what is the effect of the power of recalling? Your representative, with an operating revocation over his head, will lose all ideas of the general good, and will dwindle to a servile agent, attempting to serve local and partial benefits by cabal and intrigue. There are great and insuperable objections to a rotation. It is an abridgment of the rights of the people, and it may deprive them, at critical seasons, of the services of the most important characters in the nation. It deprives a man of honorable ambition, whose highest duty is the applause of his fellow-citizens, of an efficient motive to great and patriotic exertions. The people, individually, have no method of testifying their esteem but by a reelection; and shall they be deprived of the honest satisfaction of wreathing for their friend and patriot a crown of laurel more durable than monarchy can bestow?

It has been objected that the Senate are made too dependent upon the state legislatures. No business under the Constitution of the federal Convention could have been more embarrassing than the constructing the Senate; as that body must conduct our foreign negotiations, and establish and preserve a system of national politics, a uniform adherence to which can alone induce other nations to negotiate with and confide in us. It is certain the change of the men who compose it should not be too frequent, and should be gradual. At the same time, suitable checks should be provided to prevent an abuse of power, and to continue their dependence on their constituents. I think the Convention have most happily extricated themselves from the embarrassment. Although the senators are elected for six years, yet

the Senate, as a body composed of the same men, can exist only for two years, without the consent of the states. If the states think proper, one third of that body may, at the end of every second year, be new men. When the Senate act as legislators, they are controllable at all times by the representatives; and in their executive capacity, in making treaties and conducting the national negotiations, the consent of two thirds is necessary, who must be united to a man, (which is hardly possible,) or the new men biennially sent to the Senate, if the states choose it, can control them; and at all times there will also be one third of the Senate, who, at the expiration of two years, must obtain a reëlection, or return to the mass of the people. And the change of men in the Senate will be so gradual as not to destroy or disturb any national system of politics.

It is objected that it is dangerous to allow the Senate a right of proposing alterations or amendments in money bills; that the Senate may by this power increase the supplies, and establish profuse salaries; that for these reasons the lords in the British Parliament have not this power, which is a great security to the liberties of Englishmen. I was much surprised at hearing this objection, and the grounds upon which it was supported. The reason why the lords have not this power, is founded on a principle in the English constitution, that the commons alone represent the whole property of the nation; and as a money bill is a grant to the king, none can make the grant but those who represent the property of the nation; and the negative of the lords is introduced to check the profusion of the commons, and to guard their own property. The manner of passing a money bill is conclusive evidence of these principles; for, after the assent of the lords, it does not remain with the clerk of the Parliament, but is returned to the commons, who, by their speaker, present it to the king as the gift of the commons. But every supposed control the Senate, by this power, may have over money bills, they can have without it; for, by private communications with the representatives, they may as well insist upon the increase of the supplies, or salaries, as by official communications. But had not the Senate this power, the representatives might take any foreign matter to a money bill, and compel the Senate to concur, or lose the supplies. This might be done in critical seasons, when the Senate

might give way to the encroachments of the representatives, rather than sustain the odium of embarrassing the affairs of the nation; the balance between the two branches of the legislature would, in this way, be endangered, if not destroyed, and the Constitution materially injured. This subject was fully considered by the Convention for forming the constitution of Massachusetts, and the provision made by that body, after mature deliberation, is introduced into the federal Constitution.

It was objected that, by giving Congress a power of direct taxation, we give them power to destroy the state governments, by prohibiting them from raising any moneys; but this objection is not founded in the Constitution. Congress have only a concurrent right with each state, in laying direct taxes, not an exclusive right; and the right of each state to direct taxation is equally extensive and perfect as the right of Congress; any law, therefore, of the United States, for securing to Congress more than a concurrent right with each state, is usurpation, and void.

It has been objected that we have no bill of rights. If gentlemen who make this objection would consider what are the supposed inconveniences resulting from the want of a declaration of rights, I think they would soon satisfy themselves that the objection has no weight. Is there a single natural right we enjoy, uncontrolled by our own legislature, that Congress can infringe? Not one. Is there a single political right secured to us by our constitution, against the attempts of our own legislature, which we are deprived of by this Constitution? Not one, that I recollect. All the rights Congress can control we have surrendered to our own legislature; and the only question is, whether the people shall take from their own legislatures a certain portion of the several sovereignties, and unite them in one head, for the more effectual securing of the national prosperity and happiness.

The honorable gentleman from Boston has stated at large most of the checks the people have against usurpation, and the abuse of power, under the proposed Constitution; but from the abundance of his matter, he has, in my opinion, omitted two or three, which I shall mention. The oath the several legislative, executive, and judicial officers of the several states take to support the federal Constitution, is as

effectual a security against the usurpation of the general government as it is against the encroachment of the state governments. For an increase of the powers by usurpation is as clearly a violation of the federal Constitution as a diminution of these powers by private encroachment ; and that the oath obliges the officers of the several states as vigorously to oppose the one as the other. But there is another check, founded in the nature of the Union, superior to all the parchment checks that can be invented. If there should be a usurpation, it will not be on the farmer and merchant, employed and attentive only to their several occupations ; it will be upon thirteen legislatures, completely organized, possessed of the confidence of the people, and having the means, as well as inclination, successfully to oppose it. Under these circumstances, none but madmen would attempt a usurpation. But, sir, the people themselves have it in their power effectually to resist usurpation, without being driven to an appeal to arms. An act of usurpation is not obligatory ; it is not law ; and any man may be justified in his resistance. Let him be considered as a criminal by the general government, yet only his own fellow-citizens can convict him ; they are his jury, and if they pronounce him innocent, not all the powers of Congress can hurt him ; and innocent they certainly will pronounce him, if the supposed law he resisted was an act of usurpation.

Afternoon. — As soon as the Convention met this afternoon, Mr. NASON, in a short speech, introduced a motion to this effect : “ That this Convention so far reconsider their former vote to discuss the Constitution by paragraphs, as to leave the subject at large open for consideration.” This motion met with a warm opposition from several parts of the house.

Mr. WALES said, that the time which had been spent in the discussion had been well spent, and that he was much surprised to see gentlemen thus wishing to hurry the matter.

Mr. WIDGERY said, that necessity compelled them to hurry.

Mr. DALTON. Mr. President, we have been but six or seven days in the discussion of the Constitution. Sir, has not paragraph after paragraph been considered and explained ? Has not great light been thrown upon the article we have considered ? For my part, I profess to have recei

much light on them. We are now discussing the powers of Congress, sir; shall we pass them over? Shall we pass over the article of the judiciary power, without examination? — I hope, sir, it will be particularly inquired into. I am sorry to hear gentlemen allege that they have been a long time from home, and that the want of money necessitates them to wish for an early decision. Sir, have not the General Court provided for the payment of the members of this Convention? and the treasurer, I am informed, is collecting money to comply with that provision. There are many parts which ought to be explained. I hope we shall attend to them with deliberation, and that, for the sake of saving a little money, we may not pass over the Constitution without well considering it.

Judge SUMNER wished the motion might be withdrawn.

Mr. NASON said, he would withdraw his motion for the present, but mentioned his intention of again making it at ten o'clock to-morrow morning.

THURSDAY, *January 24.* — Mr. NASON renewed his motion for reconsidering a former vote to discuss the Constitution by paragraphs, so that the whole may be taken up.

The Hon. Mr. ADAMS said, he was one of those who had had difficulties and doubts respecting some parts of the proposed Constitution. He had, he said, for several weeks after the publication of it, laid by all the writings in the public papers on the subject, in order to be enabled leisurely to consider them. He had, he said, still more difficulties on his mind; but that he had chosen rather to be an auditor than an objector, and he had particular reasons therefor. As this was the case with him, and others, he believed, were in a similar situation, he was desirous to have a full investigation of the subject; that thereby such might be confirmed, either in favor or against the Constitution; and was, therefore, against the motion. We ought not, he said, to be stingy of our time, or the public money, when so important an object demanded them; and the public expect that we will not. He was sorry, he said, for gentlemen's necessities; but he would rather support the gentlemen who were so necessitated, or lend them money to do it, than they should hurry so great a subject. He, therefore, hoped that the question would be put, and that we should proceed as we began

Mr. PITTS said, it was impossible to consider the whole until the parts had been examined. Our constituents, said he, have a right to demand of us the reasons which shall influence us to vote as we shall do. He must, he said, therefore oppose the motion.

The Hon. Mr. KING, Col. SMITH, and several other gentlemen, spoke against the motion.

Mr. WIDGERY opposed the motion's being winked out of sight. He wished, he said, the question might be put, that the sense of the Convention respecting it might be taken.

Gen. THOMPSON said, it was not essential how the matter was considered; but he wished to have the whole subject at large open to discussion, so that every body might speak to it. A member, says he, gets up and speaks, but he is called to order, as not confining himself to the particular paragraph under debate; and this puts him out. In his opinion, he said, the Constitution, and the reasons which induced gentlemen to frame it, ought to have been sent to the several towns to be considered by them. My town, said he, considered it seven hours, and after this there was not one in favor of it. If this had been done, we should have known the minds of the people on it; and should we dare, he asked, to act different from the sense of the people? It is strange, he said, that a system, which its planners say is so plain, *that he that runs may read it*, should want so much explanation.

[The question being generally called for, the motion was put, and negatived, without a return of the house. The endeavors of gentlemen to hush to silence a small buzz of congratulation, among a few citizens in the gallery, being mistaken by some of the members for a hiss, created a momentary agitation in the Convention, which, however, after a short conversation, subsided.]

The eighth section was again read.

The Hon. Mr. SEDGWICK went into a general answer to the objections which had been started against the powers to be granted to Congress by this section. He showed the absolute necessity there was that the body which had the security of the whole for their object, should have the necessary means allowed them to effect it; and in order to secure the people against the abuse of this power, the representa-

tives and people, he said, are equally subject to the laws, and can, therefore, have but one and the same interest; that they would never lay unnecessary burdens, when they themselves must bear a part of them; and from the extent of their objects, their power ought necessarily to be illimitable. Men, said he, rarely do mischief for the sake of being mischievous. With respect to the power, in this section, to raise armies, the honorable gentleman said, although gentlemen had thought it a dangerous power, and would be used for the purpose of tyranny, yet they did not object to the Confederation in this particular; and by this, Congress could have kept the whole of the late army in the field, had they seen fit. He asked, if gentlemen could think it possible that the legislature of the United States should raise an army unnecessarily, which, in a short time, would be under the control of other persons; for, if it was not to be under their control, what object could they have in raising it? It was, he said, a chimerical idea to suppose that a country like this could ever be enslaved. How is an army for that purpose to be obtained from the freemen of the United States? They certainly, said he, will know to what object it is to be applied. Is it possible, he asked, that an army could be raised for the purpose of enslaving themselves and their brethren? or, if raised, whether they could subdue a nation of freemen, who know how to prize liberty, and who have arms in their hands? He said, it was a deception in gentlemen to say that this power could be thus used. The honorable gentleman said, that in the Constitution every possible provision against an abuse of power was made; and if gentlemen would candidly investigate for themselves, they would find that the evils they lament cannot ensue therefrom.

Mr. DAWES observed, upon the authority of Congress to raise and support armies, that all the objections which had been made by gentlemen against *standing* armies, were inapplicable to the present question, which was, that, as there must be an authority somewhere to raise and support armies, whether that authority ought to be in Congress. As Congress are the *legislature* upon the proposed plan of government, in them only, said he, should be lodged the power under debate. Some gentlemen seem to have confused ideas about *standing armies*: that the legislature of a coun-

try should not have power to raise armies, is a doctrine he had never heard before. Charles II., in England, kept in pay an army of five thousand men, and James II. augmented them to thirty thousand. This occasioned a great and just alarm through the nation; and, accordingly, when William III. came to the throne, it was declared unconstitutional to raise or keep a standing army, in time of peace, *without the consent of the legislature*. Most of our own state constitutions have borrowed this language from the English declaration of rights, but none of them restrain their legislatures from raising and supporting armies. Those who never objected to such an authority in Congress, as vested by the old Confederation, surely ought not to object to such a power in Congress, where there is to be a new branch of representation, arising immediately from the people, and which branch alone must originate those very grants that are to maintain an army. When we consider that this branch is to be elected every two years, there is great propriety in its being restrained from making any grants in support of the army for a longer space than that of their existence. If the election of this popular branch were for seven years, as in England, the men who would make the first grant, might also be the second and third, for the continuance of the army; and such an acquaintance might exist between the representatives in Congress and the leaders of the army as might be unfavorable to liberty. But the wisdom of the late Convention has avoided this difficulty. The army must expire of itself in two years after it shall be raised, unless renewed by representatives, who, at that time, will have just come fresh from the body of the people. It will share the same fate as that of a temporary law, which dies at the time mentioned in the act itself, unless revived by some future legislature.

Capt. DENCH said, it had been observed, and he was not convinced that the observation was wrong, that the grant of the powers in this section would produce a consolidation of the states, and the moment it begins, a dissolution of the state governments commences. If mistaken, he wished to be set right.

Afternoon. — Dr. TAYLOR asked why there was not to be a *federal town*, over which Congress is to exercise exclusive legislation.

Hon. Mr. STRONG said, every gentleman must think it the erection of a federal town was necessary, wherein Congress might remain protected from insult. A few years ago, said the honorable gentleman, Congress had to remove, because they were not protected by the authority of the State in which they were then sitting. He asked whether the Convention, though convened for but a short period, did not think it was necessary that they should have power to protect themselves from insult; much more so must they think it necessary to provide for Congress, considering they were to be a permanent body.

Hon. Mr. DAVIS (of Boston) said it was necessary that Congress should have a permanent residence; and that it was the intention of Congress, under the Confederation, to erect a federal town. He asked, Would Massachusetts, or any other state, wish to give to New York, or the state in which Congress shall sit, the power to influence the proceedings of that body, which was to act for the benefit of the whole, by leaving them liable to the outrage of the citizens of such states?

Dr. TAYLOR asked, why it need be *ten miles square*, and whether one mile square would not be sufficient.

Hon. Mr. STRONG said, Congress was not to exercise jurisdiction over a district of ten miles, but one not exceeding ten miles square.

Rev. Mr. STILLMAN said, that, whatever were the limits of the district, it would depend on the cession of the jurisdiction of one of the states.

Mr. DENCH said, that he wished further light on the subject; but that from the words, "We, the people," in the first clause, ordaining this Constitution, he thought it was an actual consolidation of the states, and that, if he was not mistaken, the moment it took place, a dissolution of the State governments will also take place.

Gen. BROOKS (of Lincoln) rose, he said, to consider the suggestion by the gentleman last speaking, that this Constitution would produce a dissolution of the State governments, or a consolidation of the whole; which, in his opinion, he said, was ill founded—or rather a loose idea. In the first place, says he, the Congress, under this Constitution, cannot be organized without repeated acts of the legislatures of the several states; and, therefore, if the creating

power is dissolved, the body to be created cannot exist. In the second place, says the general, it is impossible the general government can exist, unless the governments of the several states are forever existing; as the qualifications of the electors of the federal representatives are to be the same as those of the electors of the most numerous branch of the state legislatures. It was, therefore, he said, impossible that the state governments should be annihilated by the general government, and it was, he said, strongly implied, from that part of the section under debate which gave Congress power to exercise exclusive jurisdiction over the federal town, that they shall have it over no other place. When we attend to the Constitution, we shall see, says the general, that the powers to be given to Congress amount only to a consolidation of the strength of the Union, and that private rights are not consolidated. The general mentioned the rights which Congress could not infringe upon, and said that their power to define what was treason was much less than is vested in the legislature of this state by our own constitution; as it was confined, in the third section of article third, to levying war, or adhering to and comforting enemies, only. He mentioned the restraint upon Congress in the punishment of treason, and compared it with the extended powers lodged in the Parliament of Great Britain on like crimes; and concluded by observing, that, as the United States guaranty to *each state* a republican form of government, the state governments were as effectually secured as though this Constitution should never be in force.

Hon. Mr. KING said, in reply to the inquiry respecting a federal town, that there was now no place for Congress to reside in, and that it was necessary that they should have a permanent residence, where to establish proper archives, in which they may deposit treaties, state papers, deeds of cession, &c.

Hon. Mr. SINGLETARY said, that all gentlemen had said about a bill of rights to the Constitution, was, that what is written is written; but he thought we were giving up all power, and that the states will be like towns in this state. Towns, said he, have a right to lay taxes, to raise money, and the states possibly may have the same. We have now, said he, a good republican Constitution, and we do not want it guarantied to us. He did not understand

what gentlemen meant by Congress guarantying a republican form of government; he wished they would not play round the subject with their fine stories, like a fox round a trap, but come to it. Why don't they say that Congress will guaranty our state constitution?

Gen. THOMPSON said, Congress only meant to guaranty a *form* of government.

Hon. Mr. KING asked whether, if the present constitution of this state had been guaranteed by the United States, the honorable gentleman from Sutton would not have considered it as a great defect in the proposed Constitution, as it must have precluded the state from making any alteration in it, should they see fit so to do at the time mentioned in the Constitution.

[Several other gentlemen spoke, in a desultory conversation, on various parts of the Constitution; in which several articles from the constitution of this state, and the Confederation, were read; many questions asked the honorable gentlemen who framed the Constitution, to which answers apparently satisfactory were given.]

FRIDAY, *January 25*.—The 8th section still under debate; but the conversation continued desultory; and much attention was paid to the inquiries of gentlemen on different parts of the Constitution, by those who were in favor of it.

Mr. AMES, in a short discourse, called on those who stood forth in 1775 to stand forth now; to throw aside all interested and party views; to have one purse and one heart for the whole; and to consider that, as it was necessary then, so was it necessary now, to unite,—or die we must.

Hon. Mr. SINGLETARY. Mr. President, I should not have troubled the Convention again, if some gentlemen had not called on them that were on the stage in the beginning of our troubles, in the year 1775. I was one of them. I have had the honor to be a member of the court all the time, Mr. President, and I say that, if any body had proposed such a constitution as this in that day, it would have been thrown away at once. It would not have been looked at. We contended with Great Britain, some said for a threepenny duty on tea; but it was not that; it was because they claimed a right to tax us and bind us in all cases whatever. And does not this Constitution do the same? Does it not take away all we have—all our property? Does

it not lay *all* taxes, duties, imposts, and excises? And what more have we to give? They tell us Congress won't lay dry taxes upon us, but collect all the money they want by impost. I say, there has always been a difficulty about impost. Whenever the General Court was going to lay an impost, they would tell us it was more than trade could bear, that it hurt the fair trader, and encouraged smuggling; and there will always be the same objection: they won't be able to raise money enough by impost, and then they will lay it on the land, and take all we have got. These lawyers, and men of learning, and moneyed men, that talk so finely, and gloss over matters so smoothly, to make us poor illiterate people swallow down the pill, expect to get into Congress themselves; they expect to be the managers of this Constitution, and get all the power and all the money into their own hands, and then they will swallow up all us little folks, like the great *Leviathan*, Mr. President; yes, just as the whale swallowed up *Jonah*. This is what I am afraid of; but I won't say any more at present, but reserve the rest to another opportunity.

Hon. Mr. SMITH. Mr. President, I am a plain man, and get my living by the plough. I am not used to speak in public, but I beg your leave to say a few words to my brother ploughjoggers in this house. I have lived in a part of the country where I have known the worth of good government by the want of it. There was a black cloud that rose in the east last winter, and spread over the west. [Here Mr. Widgery interrupted. Mr. President, I wish to know what the gentleman means by the east.] I mean, sir, the county of Bristol; the cloud rose there, and burst upon us, and produced a dreadful effect. It brought on a state of anarchy, and that led to tyranny. I say, it brought anarchy. People that used to live peaceably, and were before good neighbors, got distracted, and took up arms against government. [Here Mr. Kingsley called to order, and asked, what had the history of last winter to do with the Constitution. Several gentlemen, and among the rest the Hon. Mr. Adams, said the gentleman was in order—let him go on in his own way.] I am going, Mr. President, to show you, my brother farmers, what were the effects of anarchy, that you may see the reasons why I wish for good government. People I say took up arms; and then, if you went to speak

to them, you had the musket of death presented to your breast. They would rob you of your property; threaten to burn your houses; oblige you to be on your guard night and day; alarms spread from town to town; families were broken up; the tender mother would cry, "O, my son is among them! What shall I do for my child!" Some were taken captive, children taken out of their schools, and carried away. Then we should hear of an action, and the poor prisoners were set in the front, to be killed by their own friends. How dreadful, how distressing was this! Our distress was so great that we should have been glad to snatch at any thing that looked like a government. Had any person, that was able to protect us, come and set up his standard, we should all have flocked to it, even if it had been a monarch; and that monarch might have proved a tyrant;—so that you see that anarchy leads to tyranny, and better have one tyrant than so many at once.

Now, Mr. President, when I saw this Constitution, I found that it was a cure for these disorders. It was just such a thing as we wanted. I got a copy of it, and read it over and over. I had been a member of the Convention to form our own state constitution, and had learnt something of the checks and balances of power, and I found them all here. I did not go to any lawyer, to ask his opinion; we have no lawyer in our town, and we do well enough without. I formed my own opinion, and was pleased with this Constitution. My honorable old daddy there [pointing to Mr. Singletary] won't think that I expect to be a Congress-man, and swallow up the liberties of the people. I never had any post, nor do I want one. But I don't think the worse of the Constitution because lawyers, and men of learning, and moneyed men, are fond of it. I don't suspect that they want to get into Congress and abuse their power. I am not of such a jealous make. They that are honest men themselves are not apt to suspect other people. I don't know why our constituents have not a good right to be as jealous of us as we seem to be of the Congress; and I think those gentlemen, who are so very suspicious that as soon as a man gets into power he turns rogue, had better look at home.

We are, by this Constitution, allowed to send ten members to Congress. Have we not more than that number fit to go? I dare say, if we pick out ten, we shall have another

ten left, and I hope ten times ten; and will not these be a check upon those that go? Will they go to Congress, and abuse their power, and do mischief, when they know they must return and look the other ten in the face, and be called to account for their conduct? Some gentlemen think that our liberty and property are not safe in the hands of moneyed men, and men of learning? I am not of that mind.

Brother farmers, let us suppose a case, now: Suppose you had a farm of 50 acres, and your title was disputed, and there was a farm of 5000 acres joined to you, that belonged to a man of learning, and his title was involved in the same difficulty; would you not be glad to have him for your friend, rather than to stand alone in the dispute? Well, the case is the same. These lawyers, these moneyed men, these men of learning, are all embarked in the same cause with us, and we must all swim or sink together; and shall we throw the Constitution overboard because it does not please us alike? Suppose two or three of you had been at the pains to break up a piece of rough land, and sow it with wheat; would you let it lie waste because you could not agree what sort of a fence to make? Would it not be better to put up a fence that did not please every one's fancy, rather than not fence it at all, or keep disputing about it until the wild beasts came in and devoured it? Some gentlemen say, Don't be in a hurry; take time to consider, and don't take a leap in the dark. I say, Take things in time; gather fruit when it is ripe. There is a time to sow and a time to reap; we sowed our seed when we sent men to the federal Convention; now is the harvest, now is the time to reap the fruit of our labor; and if we won't do it now, I am afraid we never shall have another opportunity.

Mr. PARSONS considered the several charges of ambiguity which gentlemen had laid to the Constitution, and, with a great deal of accuracy, stated the obvious meaning of the clauses thus supposed to be ambiguous. He concluded his explanation by saying, that no compositions, which men can pen, could be formed, but what would be liable to the same charge.

Afternoon.—Hon. Mr. DALTON. Mr. President, it has been demanded by some gentlemen in opposition to this Constitution, why those who were opposed to the augmentation of the powers of Congress a few years since, should

now be the warmest advocates for the powers to be granted by the section under debate. Sir, I was opposed to the five per cent. impost being granted to Congress; and I conceived that such a grant, under the Confederation, would produce great difficulties and embarrassments. But, sir, as Congress is, by the proposed Constitution, to be differently constructed, as a proportionate voice of the states in that body is to be substituted for the present equal (or rather unequal) one, my objections will be removed. In my opinion, the delegating of power to a government in which the people have so many checks, will be perfectly safe, and consistent with the preservation of their liberties.

Mr. AMES said, that, in the course of the debates, gentlemen had justified the Confederation; but he wished to ask whether there was any danger in this Constitution which is not in the Confederation. If gentlemen are willing to confederate, why, he asked, ought not Congress to have the powers granted by this section? In the Confederation, said Mr. A., the checks are wanting which are to be found in this Constitution. And the fears of gentlemen that this Constitution will provide for a permanent aristocracy are therefore ill-founded; for the rulers will always be dependent on the people, like the insects of a sunshiny day, and may, by the breath of their displeasure, be annihilated.

Mr. WIDGERY. Mr. President, enough has, I think, been said on the 8th section. It has been repeated, over and over again, that the adoption of the Constitution will please all ranks; that the present inefficiency of the Confederation is obvious; and that blessed things will surely be the result of this Constitution. Many say, Ask the mechanics, ask the yeomanry. But they do not tell us what the answer of these will be. All we hear is, that the merchant and farmer will flourish, and that the mechanics and tradesmen are to make their fortunes directly, if the Constitution goes down. Is it, sir, because the seat of government is to be carried to Philadelphia? Who, sir, is to pay the debts of the yeomanry and others? Sir, when oil will quench fire, I will believe all this, and not till then. On the contrary, I think the adopting this Constitution makes against them, though it may be something in favor of the merchants. Have not Congress power to tax polls,—for there is no other way of levying a dry tax,—and by this means the poor will

pay as much as the rich. Gentlemen say we are undone, and that there is no resource, unless this Constitution is adopted. I cannot see why we need, for the sake of a little meat, swallow a great bone, which, if it should happen to stick in our throats, can never be got out. Some gentlemen have given out, that we are surrounded by enemies, that we owe debts, and that the nations will make war against us, and take our shipping, &c. Sir, I ask, Is this a fact? Or whether gentlemen think as they say? I believe they do not; for I believe they are convinced that the nations we owe do not wish us at present to pay more than the interest.

Mr. W., after considering some other observations which had dropped from gentlemen in the course of the debates on the 8th section, concluded by saying, that he could not see the great danger that would arise from rejecting the Constitution.

The Hon. Mr. GORHAM adverted to the suggestion of some gentlemen, that, by granting the impost to Congress, this state would pay more than its proportion, and said that it could be made an objection as much against one government as another. But he believed gentlemen would accede that the impost was a very proper tax. As to the tax on polls, which the gentleman from New Gloucester had said would take place, he saw, he said, no article in the Constitution which warranted the assertion; it was, he said, a distressful tax, and would never be adopted. By impost and excise, the man of luxury will pay; and the middling and the poor parts of the community, who live by their industry, will go clear; and as this would be the easiest mode of raising a revenue, it was the most natural to suppose it would be resorted to. Twenty per cent., he said, may as well be paid for some luxuries as five; nay, one hundred per cent. impost on some articles might be laid on, as is done in England and France. How often, observed the honorable gentleman, has Mr. Adams tried to accomplish a commercial treaty with England, with but feeble power! They prohibit our oil, fish, lumber, pot and pearl ashes, from being imported into their territories, in order to favor Nova Scotia, for they know we cannot make general retaliating laws. They have a design in Nova Scotia to rival us in the fishery, and our situation at present favors their design. From the abundance of our

markets, we could supply them with beef, butter, pork, &c., but they lay what restrictions on them they please, which they durst not do, were there an adequate power lodged in the general government to regulate commerce.

Mr. JONES, Col. PORTER, and Col. VARNUM, said a few words in favor of the article, when the Convention proceeded to the consideration of the 9th section.

Mr. NEAL (from Kittery) went over the ground of objection to this section, on the idea that the slave trade was allowed to be continued for twenty years. His profession, he said, obliged him to bear witness against any thing that should favor the making merchandise of the bodies of men, and, unless his objection was removed, he could not put his hand to the Constitution. Other gentlemen said, in addition to this idea, that there was not even a proposition that the negroes ever shall be free; and Gen. THOMPSON exclaimed, Mr. President, shall it be said that, after we have established our own independence and freedom, we make *slaves* of others? O! Washington, what a name has he had! How he has immortalized himself! But he holds those in slavery who have as good a right to be free as he has. He is still for self; and, in my opinion, his character has sunk fifty per cent.

On the other side, gentlemen said, that the step taken in this article towards the abolition of slavery was one of the beauties of the Constitution. They observed, that in the Confederation there was no provision whatever for its being abolished; but this Constitution provides that Congress may, after twenty years, totally annihilate the slave trade; and that, as all the states, except two, have passed laws to this effect, it might reasonably be expected that it would then be done. In the interim, all the states were at liberty to prohibit it.

SATURDAY, *January 26.* — [The debate on the 9th section still continued desultory, and consisted of similar objections, and answers thereto, as had before been used. Both sides deprecated the slave trade in the most pointed terms; on one side, it was most pathetically lamented by Mr. Nason, Major Lusk, Mr. Neal, and others, that this Constitution provided for the continuation of the slave trade for twenty years; and on the other, the Hon. Judge Dana, Mr. Adams, and others, rejoiced that a door was now to be opened for

the annihilation of this odious, abhorrent practice, in a certain time.]

The paragraph which provides that "the privilege of the writ of *habeas corpus* shall not be suspended, unless in cases of rebellion or invasion," was read, when

Gen. THOMPSON asked the president to please to proceed. We have, said he, read the book often enough; it is a consistent piece of inconsistency.

Hon. Mr. ADAMS, in answer to an inquiry of the Hon. Mr. Taylor, said, that this power given to the general government to suspend this privilege in cases of rebellion and invasion, did not take away the power of the several states to suspend it, if they shall see fit.

Dr. TAYLOR asked, why this darling privilege was not expressed in the same manner it was in the Constitution of Massachusetts. [Here the honorable gentleman read the paragraph respecting it, in the constitution of that state, and then the one in the proposed Constitution.] He remarked on the difference of expression, and asked why the time was not limited.

Judge DANA said, the answer, in part, to the honorable gentleman, must be, that the same men did not make both Constitutions; that he did not see the necessity or great benefit of limiting the *time*. Supposing it had been, as in our constitution, "not exceeding twelve months," yet, as our legislature can, so might the Congress, continue the suspension of the writ from time to time, or from year to year. The safest and best restriction, therefore, arises from the nature of the cases in which Congress are authorized to exercise that power at all, namely, in those of rebellion or invasion. These are clear and certain terms, facts of public notoriety, and whenever these shall cease to exist, the suspension of the writ must necessarily cease also. He thought, the citizen had a better security for his privilege of the writ of *habeas corpus* under the federal than under the state constitution; for our legislature may suspend the writ as often as they judge "*the most urgent and pressing occasions*" call for it. He hoped these short observations would satisfy the honorable gentleman's inquiries; otherwise, he should be happy in endeavoring to do it by going more at large into the subject.

Judge SUMNER said, that this was a restriction on Congress, that the writ of *habeas corpus* should not be suspended,

except in cases of rebellion or invasion. The learned judge then explained the nature of this writ. When a person, said he, is imprisoned, he applies to a judge of the Supreme Court; the judge issues his writ to the jailer, calling upon him to have the body of the person imprisoned before him, with the crime on which he was committed. If it then appears that the person was legally committed, and that he was not bailable, he is remanded to prison; if illegally confined, he is enlarged. This privilege, he said, is essential to freedom, and therefore the power to suspend it is restricted. On the other hand, the state, he said, might be involved in danger; the worst enemy may lay plans to destroy us, and so artfully as to prevent any evidence against him, and might ruin the country, without the power to suspend the writ was thus given. Congress have only power to suspend the privilege to persons committed by their authority. A person committed under the authority of the states will still have a right to this writ.

· *MONDAY, January 28.*—This and the two following days were taken up in considering the several sections of the second and third articles, every one of which was objected to by those who were opposed to the Constitution; and the objections were obviated by gentlemen in favor of it. We do not think it essential to go into a minute detail of the conversation; as, in the speeches on the grand question, the field is again gone over. We can only say that, with the utmost attention, every objection, however trifling, was answered, and that the unremitted endeavors of gentlemen who advocated the Constitution, to convince those who were in error, were not without effect. The main objections to the judiciary power are contained in the following speech delivered on

WEDNESDAY, January 30.—*Mr. HOLMES.* Mr. President, I rise to make some remarks on the paragraph under consideration, which treats of the judiciary power.

It is a maxim universally admitted, that the safety of the subject consists in having a right to a trial as free and impartial as the lot of humanity will admit of. Does the Constitution make provision for such a trial? I think not; for in a criminal process, a person shall not have a right to insist on a trial in the vicinity where the fact was committed,

where a jury of the peers would, from their local situation, have an opportunity to form a judgment of the *character* of the person charged with the crime, and also to judge of the *credibility* of the witnesses. There a person must be tried by a jury of strangers ; a jury who *may be* interested in his conviction ; and where he *may*, by reason of the distance of his residence from the place of trial, be incapable of making such a defence as he is, in justice, entitled to, and which he could avail himself of, if his trial was in the same county where the crime is said to have been committed.

These circumstances, as horrid as they are, are rendered still more dark and gloomy, as there is no provision made in the Constitution to prevent the attorney-general from filing information against any person, whether he is indicted by the grand jury or not ; in consequence of which the most innocent person in the commonwealth may be taken by virtue of a warrant issued in consequence of such information, and dragged from his home, his friends, his acquaintance, and confined in prison, until the next session of the court, which has jurisdiction of the crime with which he is charged, (and how frequent those sessions are to be we are not yet informed of,) and after long, tedious, and painful imprisonment, though acquitted on trial, may have no possibility to obtain any kind of satisfaction for the loss of his liberty, the loss of his time, great expenses, and perhaps cruel sufferings.

But what makes the matter still more alarming is, that the mode of criminal process is to be pointed out by Congress, and they have no constitutional check on them, except that the trial is to be by a *jury* : but who this jury is to be, how qualified, where to live, how appointed, or by what rules to regulate their procedure, we are ignorant of as yet : whether they are to live in the county where the trial is ; whether they are to be chosen by certain districts, or whether they are to be appointed by the sheriff *ex officio* ; whether they are to be for one session of the court only, or for a certain term of time, or for good behavior, or during pleasure, are matters which we are entirely ignorant of as yet.

The mode of trial is altogether indetermined ; whether the criminal is to be allowed the benefit of counsel ; whether he is to be allowed to meet his accuser face to face

whether he is to be allowed to confront the witnesses, and have the advantage of cross-examination, we are not yet told.

These are matters of by no means small consequence; yet we have not the smallest constitutional security that we shall be allowed the exercise of these privileges, neither is it made certain, in the Constitution, that a person charged with the crime shall have the privilege of appearing before the court or jury which is to try him.

On the whole, when we fully consider this matter, and fully investigate the powers granted, explicitly given, and specially delegated, we shall find Congress possessed of powers enabling them to institute judicatories little less inauspicious than a certain tribunal in Spain, which has long been the disgrace of Christendom: I mean that diabolical institution, the *Inquisition*.

What gives an additional glare of horror to these gloomy circumstances is the consideration, that Congress have to ascertain, point out, and determine, what kind of punishments shall be inflicted on persons convicted of crimes. They are nowhere restrained from inventing the most cruel and unheard-of punishments, and annexing them to crimes; and there is no constitutional check on them, but that *racks* and *gibbets* may be amongst the most mild instruments of their discipline.

There is nothing to prevent Congress from passing laws which shall compel a man, who is accused or suspected of a crime, to furnish evidence against himself, and even from establishing laws which shall order the court to take the charge exhibited against a man for truth, unless he can furnish evidence of his innocence.

I do not pretend to say Congress *will* do this; but, sir, I undertake to say that Congress (according to the powers proposed to be given them by the Constitution) *may* do it; and if they do not, it will be owing *entirely*—I repeat it, it will be owing *entirely*—to the goodness of the men, and not in the *least degree* owing to the goodness of the Constitution.

The framers of our state constitution took particular care to prevent the General Court from authorizing the judicial authority to issue a warrant against a man for a crime, unless his being guilty of the crime was supported by oath or affirmation, prior to the warrant being granted; why it

should be esteemed so much more safe to intrust Congress with the power of enacting laws, which it was deemed so unsafe to intrust our state legislature with, I am unable to conceive.

Mr. GORE observed, in reply to Mr. Holmes, that it had been the uniform conduct of those in opposition to the proposed form of government, to determine, in every case where it was possible that the administrators thereof could do wrong, that they would do so, although it were demonstrable that such wrong would be against their own honor and interest, and productive of no advantage to themselves. On this principle alone have they determined that the trial by jury would be taken away in civil cases; when it had been clearly shown, that no words could be adopted, apt to the situation and customs of each state in this particular. Jurors are differently chosen in different states, and in point of qualification the laws of the several states are very diverse; not less so in the causes and disputes which are entitled to trial by jury. What is the result of this? That the laws of Congress may and will be conformable to the local laws in this particular, although the Constitution could not make a universal rule equally applying to the customs and statutes of the different states. Very few governments (certainly not this) can be interested in depriving the people of trial by jury, in questions of *meum et tuum*. In criminal cases alone are they interested to have the trial under their own control; and, in such cases, the Constitution expressly stipulates for trial by jury; but then, says the gentleman from Rochester, (Mr. Holmes,) to the safety of life it is indispensably necessary the trial of crimes should be in the vicinity; and the vicinity is construed to mean county; this is very incorrect, and gentlemen will see the impropriety, by referring themselves to the different local divisions and districts of the several states. But further, said the gentleman, the idea that the jury coming from the neighborhood, and knowing the character and circumstances of the party in trial, is promotive of justice, on reflection will appear not founded in truth. If the jury judge from any other circumstances but what are part of the cause in question, they are not impartial. The great object is to determine on the real merits of the cause, uninfluenced by any personal considerations; if, therefore, the jury could be perfectly ignorant of

the person in trial, a just decision would be more probable. From such motives did the wise Athenians so constitute the famed Areopagus, that, when in judgment, this court should sit at midnight, and in total darkness, that the decision might be on the thing, and not on the person. Further, said the gentleman, it has been said, because the Constitution does not expressly provide for an indictment by grand jury in criminal cases, therefore some officer under this government will be authorized to file informations, and bring any man to jeopardy of his life, and indictment by grand jury will be disused. If gentlemen who pretend such fears will look into the constitution of Massachusetts, they will see that no provision is therein made for an indictment by grand jury, or to oppose the danger of an attorney-general filing informations; yet no difficulty or danger has arisen to the people of this commonwealth from this defect, if gentlemen please to call it so. If gentlemen would be candid, and not consider that, wherever Congress may possibly abuse power, they certainly will, there would be no difficulty in the minds of any in adopting the proposed Constitution.

Mr. DAWES said, he did not see that the right of trial by jury was taken away by the article. The word *court* does not, either by a popular or technical construction, exclude the use of a jury to try facts. When people, in common language, talk of a trial at the *Court* of Common Pleas, or the Supreme Judicial *Court*, do they not include all the branches and members of such court—the *jurors* as well as the judges? They certainly do, whether they mention the *jurors* expressly or not. Our state legislators have construed the word *court* in the same way; for they have given appeals from a justice of peace to the Court of Common Pleas, and from thence to the Supreme Court, without saying any thing of the jury; but in cases which, almost time out of mind, have been tried without jury, there the jurisdiction is given expressly to the justices of a particular court, as may be instanced by suits upon the absconding act, so called.

Gentlemen have compared the article under consideration to that power which the British claimed, and we resisted, at the revolution; namely, the power of trying the Americans without a jury. But surely there was no parallel in the cases; it was criminal cases in which they attempted to make this abuse of power. Mr. D. mentioned one example

of this, which, though young, he well remembered ; and that was the case of Nickerson, the pirate, who was tried without a jury, and whose judges were the governors of Massachusetts and of some neighboring provinces, together with Admiral Montague, and some gentlemen of distinction. Although this trial was without a jury, yet, as it was a trial upon the civil law, there was not so much clamor about it as otherwise there might have been ; but still it was disagreeable to the people, and was one of the then complaints. But the trial by jury was not attempted to be taken from civil causes. It was no object of power, whether one subject's property was lessened, while another's was increased ; nor can it be now an object with the federal legislature. What interest can they have in constituting a judiciary, to proceed in civil causes without a trial by jury ? In criminal causes, by the proposed government, there must be a jury. It is asked, Why is not the Constitution as explicit in securing the right of jury in civil as in criminal cases ? The answer is, Because it was out of the power of the Convention. The several states differ so widely in their modes of trial, some states using a jury in causes wherein other states employ only their judges, that the Convention have very wisely left it to the federal legislature to make such regulations as shall, as far as possible, accommodate the whole. Thus our own state constitution authorizes the General Court to erect judicatories, but leaves the nature, number, and extent of them, wholly to the discretion of the legislature. The bill of rights, indeed, secures the trial by jury, in civil causes, except in cases where a contrary practice has obtained. Such a clause as this some gentlemen wish were inserted in the proposed Constitution, but such a clause would be abused in that Constitution, as has been clearly stated by the honorable gentleman from Charlestown, (Mr. Gorham,) because the "exception of all cases where a jury have not heretofore been used," would include almost all cases that could be mentioned, when applied to all the states, for they have severally differed in the kinds of causes where they have tried without a jury.

Gen. HEATH. Mr. President, by my indisposition and absence, I have lost several important opportunities. I have lost the opportunity of expressing my sentiments with a candid freedom, on some of the paragraphs of the system,

which have lain heavy on my mind. I have lost the opportunity of expressing my warm approbation on some of the paragraphs. I have lost the opportunity of asking some questions for my own information, touching some of the paragraphs, and which naturally occurred, as the system unfolded. I have lost the opportunity of hearing those judicious, enlightening, and convincing arguments, which have been advanced during the investigation of the system. This is my misfortune, and I must bear it. The paragraph respecting the migration or importation of such persons as any of the states now existing shall think proper to admit, &c., is one of those considered during my absence, and I have heard nothing on the subject, save what has been mentioned this morning; but I think the gentlemen who have spoken have carried the matter rather too far on both sides. I apprehend that it is not in our power to do any thing for or against those who are in slavery in the Southern States. No gentleman, within these walls, detests every idea of slavery more than I do: it is generally detested by the people of this commonwealth; and I ardently hope that the time will soon come when our brethren in the Southern States will view it as we do, and put a stop to it; but to this we have no right to compel them. Two questions naturally arise: If we ratify the Constitution, shall we do any thing by our act to hold the blacks in slavery? or shall we become the partakers of other men's sins? I think, neither of them. Each state is sovereign and independent to a certain degree, and the states have a right, and they will regulate their own internal affairs as to themselves appears proper; and shall we refuse to eat, or to drink, or to be united, with those who do not think, or act, just as we do? Surely not. We are not, in this case, partakers of other men's sins; for in nothing do we voluntarily encourage the slavery of our fellow-men. A restriction is laid on the federal government, which could not be avoided, and a union take place. The federal Convention went as far as they could. The migration or importation, &c., is confined to the states now *existing only*; new states cannot claim it. Congress, by their ordinance for erecting new states, some time since, declared that the new states shall be republican, and that there shall be no slavery in them. But whether those in slavery in the South-

ern States will be emancipated after the year 1808, I do not pretend to determine. I rather doubt it.

After the 5th article was read at the table, —

The Hon. Mr. KING observed, that he believed gentlemen had not, in their objections to the Constitution, recollected that this article was a part of it; for many of the arguments of gentlemen were founded on the idea of future amendments being impracticable. The honorable gentleman observed on the superior excellence of the proposed Constitution in this particular, and called upon gentlemen to produce an instance, in any other national constitution, where the people had so fair an opportunity to correct any abuse which might take place in the future administration of the government under it.

Dr. JARVIS. Mr. President, I cannot suffer the present article to be passed, without rising to express my entire and perfect approbation of it. Whatever may have been my private opinion of any other part, or whatever faults or imperfections I have remarked, or fancied I have seen, in any other instance, here, sir, I have found complete satisfaction: this has been a resting place, on which I have reposed myself in the fullest security, whenever a doubt has occurred, in considering any other passage in the proposed Constitution. The honorable gentleman last speaking has called upon those persons who are opposed to our receiving the present system, to show another government, in which such a wise precaution has been taken to secure to the people the right of making such alterations and amendments, in a peaceable way, as experience shall have proved to be necessary. Allow me to say, sir, as far as the narrow limits of my own information extend, I know of no such example. In other countries, sir, — unhappily for mankind, — the history of their respective revolutions has been written in blood; and it is in this only that any great or important change in our political situation has been effected, without public commotions. When we shall have adopted the Constitution before us, we shall have in this article an adequate provision for all the purposes of political reformation. If, in the course of its operation, this government shall appear to be too severe, here are the means by which this severity may be assuaged and corrected. If, on the other hand, it shall become too lau-

guid in its movements, here, again, we have a method designated, by which a new portion of health and spirit may be infused into the Constitution.

There is, sir, another view, which I have long since taken of this subject, which has produced the fullest conviction, in my own mind, in favor of our receiving the government which we have now in contemplation. Should it be rejected, I beg gentlemen would observe, that a concurrence of all the states must be had before a new convention can be called to form another Constitution; but the present article provides, upon nine states' concurring in any alteration or amendment to be proposed either by Congress or any future convention, that this alteration shall be a part of the Constitution, equally powerful and obligatory with any other part. If it be alleged that this union is not likely to happen, will it be more likely that a union of a greater number of concurring sentiments may be had, as must be, in case we reject the Constitution in hopes of a better? But that this is practicable, we may safely appeal to the history of this country as a proof, in the last twenty years. We have united against the British; we have united in calling the late federal Convention; and we may certainly unite again in such alterations as in reason shall appear to be important for the peace and happiness of America.

In the constitution of this state, the article providing for alterations is limited in its operation to a given time; but in the present Constitution, the article is perfectly at large, unconfined to any period, and may admit of measures being taken in any moment after it is adopted. In this point it has undoubtedly the advantage. I shall not sit down, sir, without repeating, that, as it is clearly more difficult for twelve states to agree to another convention, than for nine to unite in favor of amendments, so it is certainly better to receive the present Constitution, in the hope of its being amended, than it would be to reject it altogether, with, perhaps, the vain expectation of obtaining another more agreeable than the present. I see no fallacy in the argument, Mr. President; but, if there is, permit me to call upon any gentleman to point it out, in order that it may be corrected; or, at present, it seems to me of such force as to give me entire satisfaction.

In the conversation on Thursday, on the sixth article.

which provides that "no religious test shall ever be required as a qualification to any office," &c., several gentlemen urged that it was a departure from the principles of our forefathers, who came here for the preservation of their religion; and that it would admit deists, atheists, &c., into the general government; and, people being apt to imitate the examples of the court, these principles would be disseminated, and, of course, a corruption of morals ensue. Gentlemen on the other side applauded the liberality of the clause, and represented, in striking colors, the impropriety, and almost impiety, of the requisition of a test, as practised in Great Britain and elsewhere. In this conversation, the following is the substance of the observations of the

Rev. Mr. SHUTE. Mr. President, to object to the latter part of the paragraph under consideration, which excludes a religious test, is, I am sensible, very popular; for the most of men, somehow, are rigidly tenacious of their own sentiments in religion, and disposed to impose them upon others as the *standard* of truth. If, in my sentiments upon the point in view, I should differ from some in this honorable body, I only wish from them the exercise of that candor, with which true religion is adapted to inspire the honest and well-disposed mind.

To establish a religious test as a qualification for office in the proposed federal Constitution, it appears to me, sir, would be attended with injurious consequences to some individuals, and with no advantage to the *whole*.

By the injurious consequences to individuals, I mean, that some, who, in every other respect, are qualified to fill some important post in government, will be excluded by their not being able to stand the religious test; which I take to be a privation of part of their civil rights.

Nor is there to me any conceivable advantage, sir, that would result to the whole from such a test. Unprincipled and dishonest men will not hesitate to subscribe to *any thing* that may open the way for their advancement, and put them into a situation the better to execute their base and iniquitous designs. Honest men alone, therefore, however well qualified to serve the public, would be excluded by it, and their country be deprived of the benefit of their abilities.

In this great and extensive empire, there is, and will be, a great variety of sentiments in religion among its inhabit-

ants. Upon the plan of a religious test, the question, I think, must be, Who shall be excluded from national trusts? Whatever answer bigotry may suggest, the dictates of candor and equity, I conceive, will be, *None*.

Far from limiting my charity and confidence to men of my own denomination in religion, I suppose, and I believe, sir, that there are worthy characters among men of every denomination — among the Quakers, the Baptists, the Church of England, the Papists; and even among those who have no other guide, in the way to virtue and heaven, than the dictates of natural religion.

I must therefore think, sir, that the proposed plan of government, in this particular, is wisely constructed; that, as all have an equal claim to the blessings of the government under which they live, and which they support, so none should be excluded from them for being of any particular denomination in religion.

The presumption is, that the eyes of the people will be upon the faithful in the land; and, from a regard to their own safety, they will choose for their rulers men of known abilities, of known probity, of good moral characters. The apostle Peter tells us that God is no respecter of persons, but, in every nation, he that feareth him, and worketh righteousness, is *acceptable* to him. And I know of no reason why men of such a character, in a community of whatever denomination in religion, *cæteris paribus*, with other suitable qualifications, should not be *acceptable* to the people, and why they may not be employed by them with safety and advantage in the important offices of government. The exclusion of a religious test in the proposed Constitution, therefore, clearly appears to me, sir, to be in favor of its adoption.

Col. JONES (of Bristol) thought, that the rulers ought to believe in God or Christ, and that, however a test may be prostituted in England, yet he thought, if our public men were to be of those who had a good standing in the church, it would be happy for the United States, and that a person could not be a good man without being a good Christian.

The conversation on the Constitution, by paragraphs, being ended,

Mr. PARSONS moved, *that this Convention do assent to, and ratify, this Constitution.*

Mr. NEAL rose, and said, that, as the Constitution at large was now under consideration, he would just remark, that the article which respected the Africans was the one which lay on his mind; and, unless his objections to that were removed, it must, how much soever he liked the other parts of the Constitution, be a sufficient reason for him to give his negative to it.

Col. JONES said, that one of his principal objections was, the omission of a religious test.

Rev. Mr. PAYSON. Mr. President, after what has been observed, relating to a religious test, by gentlemen of acknowledged abilities, I did not expect that it would again be mentioned, as an objection to the proposed Constitution, that such a test was not required as a qualification for office. Such were the abilities and integrity of the gentlemen who constructed the Constitution, as not to admit of the presumption, that they would have betrayed so much vanity as to attempt to erect bulwarks and barriers to the throne of God. Relying on the candor of this Convention, I shall take the liberty to express my sentiments on the nature of a religious test, and shall endeavor to do it in such propositions as will meet the approbation of every mind.

The great object of religion being God supreme, and the seat of religion in man being the heart or conscience, *i. e.*, the reason God has given us, employed on our moral actions, in their most important consequences, as related to the tribunal of God, hence I infer that God alone is the God of the conscience, and, consequently, attempts to erect human tribunals for the consciences of men are impious encroachments upon the prerogatives of God. Upon these principles, had there been a religious test as a qualification for office, it would, in my opinion, have been a great blemish upon the instrument.

Gen. HEATH. Mr. President, after a long and painful investigation of the federal Constitution, by paragraphs, this honorable Convention are drawing nigh to the ultimate question—a question as momentous as ever invited the attention of man. We are soon to decide on a system of government, digested, not for the people of the common-

wealth of Massachusetts only—not for the present people of the United States only—but, in addition to these, for all those states which may hereafter rise into existence within the jurisdiction of the United States, and for millions of people yet unborn; a system of government, not for a nation of slaves, but for a people as free and virtuous as any on earth; not for a conquered nation, subdued to our will, but for a people who have fought, who have bled, and who have conquered; who, under the smiles of Heaven, have established their independence and sovereignty, and have taken equal rank among the nations of the earth. In short, sir, it is a system of government for ourselves and for our children, for all that is near and dear to us in life; and on the decision of the question is suspended our political prosperity or infelicity, perhaps our existence as a nation. What can be more solemn? What can be more interesting? Every thing depends on our union. I know that some have supposed, that, although the union should be broken, particular states may retain their importance; but this cannot be. The strongest-nerved state, even the right arm, if separated from the body, must wither. If the great union be broken, our country, as a nation, perishes; and if our country so perishes, it will be as impossible to save a particular state as to preserve one of the fingers of a mortified hand.

By one of the paragraphs of the system, it is declared that the ratifications of the conventions of nine states shall be sufficient for the establishment of the Constitution between the states so ratifying the same. But, sir, how happy will it be, if not only nine, but even all the states, should ratify it! It will be a happy circumstance if only a small majority of this Convention should ratify the federal system; but how much more happy if we could be unanimous! It will be a happy circumstance if a majority of the people of this commonwealth should be in favor of the federal system; but how much more so, if they should be unanimous! and, if there are any means whereby they may be united, every exertion should be made to effect it. I presume, sir, that there is not a single gentleman within these walls who does not wish for a federal government—for an efficient federal government; and that this government should be possessed of every power necessary to enable it to shed on the people the benign influence of a good government. But I have

observed, from the first, that many gentlemen appear opposed to the system; and this, I apprehend, arises from their objections to some particular parts of it. Is there not a way in which their minds may be relieved from embarrassment? I think there is; and if there is, no exertions should be spared in endeavoring to do it.

If we should ratify the Constitution, and instruct our first members to Congress to exert their endeavors to have such checks and guards provided as appear to be necessary in some of the paragraphs of the Constitution, communicate what we may judge proper to our sister states, and request their concurrence,—is there not the highest probability that every thing which we wish may be effectually secured? I think there is; and I cannot but flatter myself that in this way the gentlemen of the Convention will have the difficulties under which they now labor removed from their minds. We shall be united: the people of this commonwealth and our sister states may be united. Permit me, therefore, most earnestly to recommend it to the serious consideration of every gentleman in this honorable Convention.

After Gen. Heath sat down, his excellency, the PRESIDENT, rose, and observed, that he was conscious of the impropriety, situated as he was, of his entering into the deliberations of the Convention; that, unfortunately, through painful indisposition of body, he had been prevented from giving his attendance in his place, but, from the information he had received, and from the papers, there appeared to him to be a great dissimilarity of sentiments in the Convention. To remove the objections of some gentlemen, he felt himself induced, he said, to hazard a proposition for their consideration; which, with the permission of the Convention, he would offer in the afternoon.

Afternoon.—When the Convention met in the afternoon, his excellency, the PRESIDENT, observed, that a motion had been made and seconded, that this Convention do assent to and ratify the Constitution which had been under consideration; and that he had, in the former part of the day, intimated his intention of submitting a proposition to the Convention. My motive, says he, arises from my earnest desire to this Convention, my fellow-citizens, and the public at large, that this Convention may adopt such a form of government as may extend its good influence to

every part of the United States, and advance the prosperity of the whole world. His situation, his excellency said, had not permitted him to enter into the debates of this Convention: it, however, appeared to him necessary, from what had been advanced in them, to adopt the form of government proposed; but, observing a diversity of sentiment in the gentlemen of the Convention, he had frequently had conversation with them on the subject, and from this conversation he was induced to propose to them, whether the introduction of some general amendments would not be attended with the happiest consequences. For that purpose, he should, with the leave of the honorable Convention, submit to their consideration a proposition, in order to remove the doubts and quiet the apprehensions of gentlemen; and if, in any degree, the object should be acquired, he should feel himself perfectly satisfied. He should therefore submit them; for he was, he said, unable to go more largely into the subject, if his abilities would permit him; relying on the candor of the Convention to bear him witness that his wishes for a good constitution were sincere. [*His excellency then read his proposition.*]—This, gentlemen, concluded his excellency, is the proposition which I had to make; and I submit it to your consideration, with the sincere wish that it may have a tendency to promote a spirit of union.

[The proposition submitted by his excellency having been committed to a large committee, who reported some amendments, we think it expedient to refer the reader to the form of ratification for it.]

Hon. Mr. ADAMS. Mr. President, I feel myself happy in contemplating the idea that many benefits will result from your excellency's conciliatory proposition to this commonwealth and to the United States; and I think it ought to precede the motion made by the gentleman from Newburyport, and to be at this time considered by the Convention. I have said that I have had my doubts of this Constitution. I could not digest every part of it as readily as some gentlemen; but this, sir, is my misfortune, not my fault. Other gentlemen have had their doubts; but, in my opinion, the proposition submitted will have a tendency to remove such doubts, and to conciliate the minds of the Convention, and the people without doors. This subject, sir, is of the greatest magnitude, and has employed the attention of every rational

man in the United States ; but the minds of the people are not so well agreed on it as all of us could wish. A proposa of this sort, coming from Massachusetts, from her importance, will have its weight. Four or five states have considered and ratified the Constitution as it stands ; but we know there is a diversity of opinion even in these states, and one of them is greatly agitated. If this Convention should particularize the amendments necessary to be proposed, it appears to me it must have weight in other states, where Conventions have not yet met. I have observed the sentiments of gentlemen on the subject as far as Virginia, and I have found that the objections were similar, in the newspapers, and in some of the Conventions. Considering these circumstances, it appears to me that such a measure will have the most salutary effect throughout the Union. It is of the greatest importance that *America* should still be united in sentiment. I think I have not, heretofore, been unmindful of the advantage of such a union. It is essential that the people should be united in the federal government, to withstand the common enemy, and to preserve their valuable rights and liberties. We find, in the great state of Pennsylvania, one third of the Convention are opposed to it : should, then, there be large minorities in the several states, I should fear the consequences of such disunion.

Sir, there are many parts of it I esteem as highly valuable, particularly the article which empowers Congress to regulate commerce, to form treaties, &c. For want of this power in our national head, our friends are grieved, and our enemies insult us. Our ambassador at the court of London is considered as a mere cipher, instead of the representative of the United States. Therefore it appears to me, that a power to remedy this evil should be given to Congress, and the remedy applied as soon as possible.

The only difficulty on gentlemen's minds is, whether it is best to accept this Constitution on conditional amendments, or to rely on amendments in future, as the Constitution provides. When I look over the article which provides for a revision, I have my doubts. Suppose, sir, nine states accept the Constitution without any conditions at all, and the four states should wish to have amendments,—where will you find nine states to propose, and the legislatures of nine states to agree to, the introduction of amendments ? Therefore it

seems to me that the expectation of amendments taking place at some future time, will be frustrated. This method, if we take it, will be the most likely to bring about the amendments, as the Conventions of New Hampshire, Rhode Island, New York, Maryland, Virginia, and South Carolina, have not yet met. I apprehend, sir, that these states will be influenced by the proposition which your excellency has submitted, as the resolutions of Massachusetts have ever had their influence. If this should be the case, the necessary amendments would be introduced more early and more safely. From these considerations, as your excellency did not think it proper to make a motion, with submission, I move that the paper read by your excellency be now taken under consideration by the Convention.

The motion being seconded, the proposition was read by the secretary at the table.

Dr. TAYLOR liked the idea of amendments; but, he said, he did not see any constitutional door open for the introduction of them by the Convention. He read the several authorities which provided for the meeting of Conventions, but did not see in any of them any power given to propose amendments. We are, he said, therefore, treading on unsafe ground to propose them; we must take the whole, or reject the whole. The honorable gentleman was in favor of the adjournment, and, in a speech of some length, deprecated the consequences, which, he said, must arise, if the Constitution was adopted or rejected by a small majority; and that the expenses which would accrue from the adjournment would not exceed fourpence per poll throughout the commonwealth.

Hon. Mr. CABOT rose, and observed, on what fell from the honorable gentleman last speaking, that the reason why no provision for the introduction of amendments was made in the authorities quoted by the honorable gentleman, was, that they were provided for in the 5th article of the Constitution.

FRIDAY, *February 1*, 1788.—Mr. BOWDOIN (of Dorchester) observed, that he could not but express his hearty approbation of the propositions made by his excellency, as they would have a tendency to relieve the fears, and quiet the apprehensions, of some very respectable and worthy

gentlemen, who had expressed their doubts whether some explanation of certain clauses in the Constitution, and some additional reflections on Congress, similar to those proposed by his excellency, were not necessary. But, he said, as the propositions were incorporated with the great and important question, whether this Convention will adopt and ratify the Constitution, he conceived himself in order, and would, with the permission of the Convention, make a few general observations upon the subject, which were as follows: —

It was an answer of *Solon's*, when he was asked what kind of a constitution he had constructed for the Athenians, that he had prepared as good a constitution of government as the people would bear; clearly intimating that a constitution of government should be relative to the habits, manners, and genius of the people intended to be governed by it. As the particular state governments are relative to the manners and genius of the inhabitants of each state, so ought the general government to be an assemblage of the principles of all the governments; for, without this assemblage of the principles, the general government will not sufficiently apply to the genius of the people confederated; and, therefore, by its meeting, in its operation, with a continual opposition, through this circumstance it must necessarily fail in its execution; because, agreeably to the idea of *Solon*, the people would not bear it. It may not, therefore, be improper to examine whether the federal Constitution proposed has a likeness to the different state constitutions, and such alone as to give the spirit and features of the particular governments; for Baron Montesquieu observes, that all governments ought to be relative to their particular principles, and that “a confederative government ought to be composed of states of the same nature, especially of the republican kind;” and instances that, as “the spirit of monarchy is war and enlargement of dominion, peace and moderation are the spirit of a republic.” These two kinds of government cannot naturally subsist in a confederate republic.

From hence it follows that all the governments of the states in the Union ought to be of the same nature — of the republican kind; and that the general government ought to be an assemblage of the spirit and principles of them all.

A short comparison, pointing out the likeness of the general to the particular constitutions, may sufficiently elucidate the subject.

All the constitutions of the states consist of three branches, except as to the legislative powers, which are chiefly vested in two. The powers of government are separated in all, and mutually check each other. These are laid down, as fundamental principles, in the federal Constitution. All power is derived, mediately or immediately, from the people, in all the constitutions. This is the case with the federal Constitution. The electors of representatives to the state governments are electors of representatives to the federal government. The representatives are chosen for two years; so are the representatives to the assemblies of some of the states. The equality of representation is determined in nearly all the states by numbers; so it is in the federal Constitution.

The second branch of the legislature, in some of the states, is similar to the federal Senate, having not only legislative, but executive powers; being a legislating, and, at the same time, an advising body to the executive. Such are the assistants of Rhode Island and Connecticut, and the councils of New Jersey and Georgia. The senators of Virginia and New York are chosen for four years, and so elected that a continual rotation is established, by which one quarter of their respective senates is annually elected, and by which (as one of the constitutions observes) there are more men trained to public business; and there will always be found a number of persons acquainted with the proceedings of the foregoing years, and thereby the public business be more consistently conducted. The federal senators are to be chosen for six years, and there is a rotation so established, for the reasons above mentioned, that one third of the Senate is to be chosen every two years.

The President and Vice-President answer to offices of the same name in some of the states, and to the office of governor and lieutenant-governor in most of the states. As this office is of the utmost importance, the manner of choosing, for the better security of the interests of the Union, is to be by delegates, to be expressly chosen for the purpose, in such manner as the different legislatures may direct. This method of choosing was probably taken from

the manner of choosing senators under the constitution of Maryland.

The legislative powers of the President are precisely those of the governors of this state and those of New York — rather negative than positive powers, given with a view to secure the independence of the executive, and to preserve a uniformity in the laws which are committed to them to execute.

The executive powers of the President are very similar to those of the several states, except in those points which relate more particularly to the Union, and respect ambassadors, public ministers, and consuls.

Of the genius of the people of the states, as expressed by their different constitutions of government, if the similarity of each, and the general spirit of governments, concur to point out the policy of a confederate government, by comparing the federal Constitution with those of the several states, can we expect one more applicable to the people, to the different states, and to the purposes of the Union, than the one proposed, unless it should be contended that a union was unnecessary?

“If a republic is small,” says Baron Montesquieu, “it is destroyed by a foreign force; if it is large, it is ruined by an internal imperfection” — “*Fato potentiae sua vi nixæ.*” And if mankind had not contrived a confederate republic, says the same author, “a constitution that has all the internal advantages of a republican, and the external force of a monarchical government,” they would probably have always lived under the tyranny of a single person. Admitting this principle of Baron Montesquieu’s, the several states are either too small to be defended against a foreign enemy, or too large for republican constitutions of government. If we apply the first position to the different states, which reason and the experience of the late war point out to be true, a confederate government is necessary. But if we admit the latter position, then the several governments, being in their own nature imperfect, will be necessarily destroyed, from their being too extensive for republican governments.

From whence it follows, if the foregoing principles are true, that we ought to adopt a confederation, presuming the different states well calculated for republican governments;

for, if they are not, their corruption will work their destruction separately; and if they are destined for destruction, from their natural imperfection, it will certainly be more advantageous to have them destroyed collectively than separately, as, in that case, we should fall under one great national government.

But, if the advantages of a confederacy, admitting the principles of it to be good, are duly considered, — that is, will give security and permanency to the several states, not only against internal disputes, but wars with one another; if the wars in Europe, arising from jarring and opposing interests, are a public calamity; if it is for the benefit of ourselves, and future generations, to prevent their horrid devastations on this continent, — to secure the states against such calamities, it will be necessary to establish a general government, to adjust the disputes and to settle the differences between state and state; for, without a confederacy, the several states, being distinct sovereignties, would be in a state of nature, with respect to each other; and the law of nature, which is the right of the strongest, would determine the disputes that might arise. To prevent the operation of so unjust a title; to afford protection to the weakest state against the strongest; to secure the rights of all against the encroachments of any of the states; to balance the powers of all the states, by each giving up a portion of its sovereignty, and thereby better to secure the remainder of it, are amongst the main objects of a confederacy.

But the advantages of a union of the states are not confined to mere safety from within or without. They extend not only to the welfare of each state, but even to the interest of each individual of the states.

The manner in which the states have suffered, for the want of a general regulation of trade, is so notorious, that little need be said upon the subject, to prove that the continent has been exhausted of its wealth, for the want of it, and, if the evil, from the not regulating it, is not speedily remedied, by placing the necessary powers in the hands of Congress, the liberties of the people, or the independence of the states, will be irretrievably lost. The people feeling the inconvenience of systems of government that, instead of relieving, increase their perplexities; instead of regulating trade upon principle; instead of improving the natural ad-

vantages of our country, and opening new sources of wealth, our lands have sunk in their value, our trade has languished, our credit has been daily reducing, and our resources are almost annihilated, — can we expect, in such a state, that the people will long continue their allegiance to systems of government, whether arising from the weakness of their administration, or the insufficiency of their principles, which entail on them so many calamities? I presume not. The well-being of trade depends on a proper regulation of it; on the success of trade depends wealth; on wealth, the value of lands; the strength, the welfare, and happiness of a country, upon the numbers, the ease, and independence of its yeomanry. For the want of this have our taxes most oppressively fallen upon the most useful of all our citizens — our husbandmen; while trade, for the want of its being confined to proper objects, has served rather to ruin than to enrich those that have carried it on.

Shall we, then, let causeless jealousies arise, and distract our councils? shall we let partial views and local prejudices influence our decisions? or shall we, with a becoming wisdom, determine to adopt the federal Constitution proposed, and thereby confirm the liberty, the safety, and the welfare of our country?

I might go on, sir, and point out the fatal consequences of rejecting the Constitution; but, as I have already intruded too much upon the time and patience of the Convention, I shall, for the present, forbear any further observations, requesting the candor of the Convention for those I have already made.

Hon. Mr. ADAMS. As your excellency was pleased yesterday to offer, for the consideration of this Convention, certain propositions intended to accompany the ratification of the Constitution before us, I did myself the honor to bring them forward by a regular motion, not only from the respect due to your excellency, but from a clear conviction, in my own mind, that they would tend to effect the salutary and important purposes which you had in view — “the removing the fears and quieting the apprehensions of many of the good people of this commonwealth, and the more effectually guarding against an undue administration of the federal government.”

I beg leave, sir, more particularly to consider those

propositions, and, in a very few words, to express my own opinion, that they must have a strong tendency to ease the minds of gentlemen, who wish for the immediate operation of some essential parts of the proposed Constitution, as well as the most speedy and effectual means of obtaining alterations in some other parts of it, which they are solicitous should be made. I will not repeat the reasons I offered when the motion was made, which convinced me that the measure now under consideration will have a more speedy as well as a more certain influence, in effecting the purpose last mentioned, than the measure proposed in the Constitution before us.

Your excellency's first proposition is, "that it be explicitly declared, that all powers not expressly delegated to Congress are reserved to the several states, to be by them exercised." This appears, to my mind, to be a summary of a bill of rights, which gentlemen are anxious to obtain. It removes a doubt which many have entertained respecting the matter, and gives assurance that, if any law made by the federal government shall be extended beyond the power granted by the proposed Constitution, and inconsistent with the constitution of this state, it will be an error, and adjudged by the courts of law to be void. It is consonant with the second article in the present Confederation, that each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not, by this Confederation, expressly delegated to the United States in Congress assembled. I have long considered the watchfulness of the people over the conduct of their rulers the strongest guard against the encroachments of power; and I hope the people of this country will always be thus watchful.

Another of your excellency's propositions is calculated to quiet the apprehensions of gentlemen lest Congress should exercise an unreasonable control over the state legislatures, with regard to the time, place, and manner of holding elections, which, by the 4th section of the 1st article, are to be prescribed in each state by the legislature thereof, subject to the control of Congress. I have had my fears lest this control should infringe the freedom of elections, which ought ever to be held sacred. Gentlemen who have objected to this controlling power in Congress have expressed their wishes that it had been restricted to such states as may

neglect or refuse that power vested in them, and to be exercised by them if they please. Your excellency proposes, in substance, the same restriction, which, I should think, cannot but meet with their full approbation.

The power to be given to Congress to lay and collect taxes, duties, imposts, and excises, has alarmed the minds of some gentlemen. They tell you, sir, that the exercise of the power of laying and collecting direct taxes might greatly distress the several states, and render them incapable of raising moneys for the payment of their respective state debts, or for any purpose. They say the impost and excise may be made adequate to the public emergencies in the time of peace, and ask why the laying direct taxes may not be confined to a time of war. You are pleased to propose to us that it be a recommendation, that "Congress do not lay direct taxes, but when the moneys arising from the impost and excise shall be insufficient for the public exigencies." The prospect of approaching war might necessarily create an expense beyond the productions of impost and excise. How, then, would the government have the necessary means of providing for the public defence? Must they not have recourse to other resources besides impost and excise? The people, while they watch for their own safety, must and will have a just confidence in a legislature of their own election. The approach of war is seldom, if ever, without observation: it is generally observed by the people at large; and I believe no legislature of a free country would venture a measure which should directly touch the purses of the people, under a mere pretence, or unless they could show, to the people's satisfaction, that there had been, in fact, a real public exigency to justify it.

Your excellency's next proposition is, to introduce the indictment of a grand jury, before any person shall be tried for any crime, by which he may incur infamous punishment, or loss of life; and it is followed by another, which recommends a trial by jury in civil actions between citizens of different states, if either of the parties shall request it. These, and several others which I have mentioned, are so evidently beneficial as to need no comment of mine. And they are all, in every particular, of so general a nature, and so equally interesting to every state, that I cannot but persuade myself to think they would all readily join with us in

the measure proposed by your excellency, if we should now adopt it. Gentlemen may make additional propositions if they think fit. It is presumed that we shall exercise candor towards each other; and that whilst, on the one hand, gentlemen will cheerfully agree to any proposition intended to promote a general union, which may not be inconsistent with their own mature judgment, others will avoid the making such as may be needless, or tend to embarrass the minds of the people of this commonwealth and our sister states, and thereby not only frustrate your excellency's wise intention, but endanger the loss of that degree of reputation, which, I flatter myself, this commonwealth has justly sustained.

Mr. NASON. Mr. President, I feel myself happy that your excellency has been placed, by the free suffrage of your fellow-citizens, at the head of this government. I also feel myself happy that your excellency has been placed in the chair of this honorable Convention; and I feel a confidence that the proposition submitted to our consideration yesterday, by your excellency, has for its object the good of your country. But, sir, as I have not had an opportunity leisurely to consider it, I shall pass it over, and take a short view of the Constitution at large, which is under consideration; though my abilities, sir, will not permit me to do justice to my feelings or to my constituents. Great Britain, sir, first attempted to enslave us, by declaring her laws supreme, and that she had a right to bind us in all cases whatever. What, sir, roused the Americans to shake off the yoke preparing for them? It was this measure, the power to do which we are now about giving to Congress. And here, sir, I beg the indulgence of this honorable body to permit me to make a short apostrophe to Liberty. O Liberty! thou greatest good! thou fairest property! with thee I wish to live — with thee I wish to die! Pardon me if I drop a tear on the peril to which she is exposed: I cannot, sir, see this brightest of jewels tarnished — a jewel worth ten thousand worlds; and shall we part with it so soon? O no. Gentlemen ask, "Can it be supposed that a Constitution so pregnant with danger could come from the hands of those who framed it?" Indeed, sir, I am suspicious of my own judgment, when I contemplate this idea — when I see the list of illustrious names annexed to it; but, sir, my duty to my constituents

obliges me to oppose the measure they recommended, as obnoxious to their liberty and safety.

When, sir, we dissolved the political bands which connected us with Great Britain, we were in a state of nature. We then formed and adopted the Confederation, which must be considered as a sacred instrument. This confederates us under one head, as sovereign and independent states. Now, sir, if we give Congress power to dissolve that Confederation, to what can we trust? If a nation consent thus to treat their most solemn compacts, who will ever trust them? Let us, sir, begin with this Constitution, and see what it is. And first, "We, the people of the United States, do," &c. If this, sir, does not go to an annihilation of the state governments, and to a perfect consolidation of the whole Union, I do not know what does. What! shall we consent to this? Can ten, twenty, or a hundred persons in this state, who have taken the oath of allegiance to it, dispense with this oath? Gentlemen may talk as they please of dispensing, in certain cases, with oaths; but, sir, with me they are sacred things. We are under oath: we have sworn that Massachusetts is a sovereign and independent state. How, then, can we vote for this Constitution, that destroys that sovereignty?

Col. VARNUM begged leave to set the worthy gentleman right. The very oath, he said, which the gentleman had mentioned, provides an exception for the power to be granted to Congress.

Well, continued Mr. NASON, to go on. Mr. President—let us consider the Constitution without a bill of rights—When I give up any of my natural rights, it is for the security of the rest; but here is not one right secured, although many are neglected.

With respect to biennial elections, the paragraph is rather loosely expressed. I am a little in favor of our ancient custom. Gentlemen say they are convinced that the alteration is necessary: it may be so; when I see better, I will join with them.

To go on. Representation and taxation to be apportioned according to numbers. This, sir, I am opposed to: it is unequal. I will show an instance in point. We know for certainty that, in the town of Brookline, persons are better able to pay their taxes than in the parts I represent. Sup-

pose the tax is laid on polls : why, the people of the former place will pay their tax ten times as easy as the latter — thus helping that part of the community which stands in the least need of help. On this footing, the poor pay as much as the rich ; and in this a way is laid, that five slaves shall be rated no more than three children. Let gentlemen consider this : a farmer takes three small orphans, on charity, to bring up ; they are bound to him : when they arrive at twenty-one years of age, he gives each of them a couple of suits of clothes, a cow, and two or three young cattle : we are rated as much for these as a farmer in Virginia is for five slaves, whom he holds for life — they and their posterity — the males and the she ones too. The Senate, Mr. President, are to be chosen two from each state. This, sir, puts the smaller states on a footing with the larger, when the states have to pay according to their numbers. New Hampshire does not pay a fourth part as much as Massachusetts. We must, therefore, to support the dignity of the Union, pay four times as much as New Hampshire, and almost fourteen times as much as Georgia, who, we see, are equally represented with us.

The term, sir, for which the Senate is chosen, is a grievance. It is too long to trust any body of men with power. It is impossible but that such men will be tenacious of their places ; they are to be raised to a lofty eminence, and they will be loath to come down ; and, in the course of six years, may, by management, have it in their power to create officers, and obtain influence enough to get in again, and so for life. When we felt the hand of British oppression upon us, we were so jealous of rulers, as to declare them eligible but for three years in six. In this constitution we forget this principle. I, sir, think that rulers ought, at short periods, to return to private life, that they may know how to feel for and regard their fellow-creatures. In six years, sir, and at a great distance, they will quite forget them ; —

“ For time and absence cure the purest love.”

We are apt to forget our friends, except when we are conversing with them.

We now come, sir, to the 4th section. Let us see : the time, place, and manner of holding elections, shall be prescribed in each state by the legislature thereof. No objections to this : but, sir, after *the flush of lightning comes the*

peal of thunder. "But Congress may at any time alter them," &c. Here it is, Mr. President: this is the article which is to make Congress omnipotent. Gentlemen say, this is the greatest beauty of the Constitution; this is the greatest security for the people; this is the all in all. Such language have I heard in this house; but, sir, I say, by this power Congress may, if they please, order the election of federal representatives for Massachusetts to be at Great Barrington or Machias; and at such a time, too, as shall put it in the power of a few artful and designing men to get themselves elected at their pleasure.

The 8th section, Mr. President, provides that Congress shall have power to lay and collect taxes, duties, imposts, excises, &c. We may, sir, be poor; we may not be able to pay these taxes, &c.; we must have a little meal, and a little meat, whereon to live, and save a little for a rainy day. But what follows? Let us see. To raise and support armies. Here, sir, comes the key to unlock this cabinet; here is the mean by which you will be made to pay taxes! But will ye, my countrymen, submit to this? Suffer me, sir, to say a few words on the fatal effects of standing armies, that bane of republican governments. A standing army! Was it not with this that Cæsar passed the *Rubicon*, and laid prostrate the liberties of his country? By this have seven eighths of the once free nations of the globe been brought into bondage! Time would fail me, were I to attempt to recapitulate the havoc made in the world by standing armies. Britain attempted to enforce her arbitrary measures by a standing army. But, sir, we had patriots then who alarmed us of our danger; who showed us the serpent, and bade us beware of it. Shall I name them? I fear I shall offend your excellency, but I cannot avoid it. I must. We had a Hancock, an Adams, and a Warren. Our sister states, too, produced a Randolph, a Washington, a Greene, and a Montgomery, who led us in our way. Some of these have given up their lives in defence of the liberties of their country; and my prayer to God is, that, when this race of illustrious patriots shall have bid adieu to the world, from their dust, as from the sacred ashes of the phoenix, another race may arise, who shall take our posterity by the hand, and lead them on to trample on the necks of those who shall dare to infringe on their liberties. Sir, had I a voice like Jove, I would proclaim it

throughout the world ; and had I an arm like Jove, I would hurl from the globe those villains that would dare attempt to establish in our country a standing army. I wish, sir, that the gentlemen of Boston would bring to their minds the fatal evening of the 5th of March, 1770, when by standing troops they lost five of their fellow-townsmen. I will ask them, What price can atone for their lives ? What money can make satisfaction for the loss ? The same causes produce the same effects. An army may be raised on pretence of helping a friend ; or many pretences might be used. That night, sir, ought to be a sufficient warning against standing armies, except in cases of great emergency. They are too frequently used for no other purpose than dragooning the people into slavery. But I beseech you, my countrymen, for the sake of your posterity, to act like those worthy men who have stood forth in defence of the rights of mankind, and show to the world that you will not submit to tyranny. What occasion have we for standing armies ? We fear no foe. If one should come upon us, we have a militia, which is our bulwark. Let Lexington witness that we have the means of defence among ourselves. If, during the last winter, there was not much alacrity shown by the militia in turning out, we must consider that they were going to fight their countrymen. Do you, sir, suppose that, had a British army invaded us at that time, such supineness would have been discovered ? No, sir ; to our enemies' dismay and discomfort, they would have felt the contrary ; but against deluded, infatuated men they did not wish to exert their valor or their strength. Therefore, sir, I am utterly opposed to a standing army in time of peace.

The paragraph that gives Congress power to suspend the writ of *habeas corpus* claims a little attention. This is a great bulwark — a great privilege indeed. We ought not, therefore, to give it up on any slight pretence. Let us see : how long is it to be suspended ? As long as rebellion or invasion shall continue. This is exceeding loose. Why is not the time limited, as is our Constitution ? But, sir, its design would then be defeated. It was the intent, and by it we shall give up one of our greatest privileges. Mr. N. concluded by saying, he had much more to say, but, as the house were impatient, he should sit down for the present, to give other gentlemen an opportunity to speak.

Judge SUMNER, adverting to the pathetic apostrophe of the gentleman last speaking, said, he could with as much sincerity apostrophize — O Government! thou greatest good! thou best of blessings! with thee I wish to live — with thee I wish to die! Thou art as necessary to the support of the political body as meat and bread are to the natural body. The learned judge then turned his attention to the proposition submitted by the president, and said, he sincerely hoped that it would meet the approbation of the Convention, as it appeared to him a remedy for all the difficulties which gentlemen, in the course of the debates, had mentioned. He particularized the objections which had been started, and showed that their removal was provided for in the proposition; and concluded by observing, that the probability was very great, that, if the amendments proposed were recommended by this Convention, they would, on the meeting of the first Congress, be adopted by the general government.

Mr. WIDGERY said, he did not see the probability that these amendments would be made, if we had authority to propose them. He considered, he said, that the Convention did not meet for the purpose of recommending amendments, but to adopt or reject the Constitution. He concluded by asking, whether it was probable that those states who had already adopted the Constitution would be likely to submit to amendments.

Afternoon. [When the Convention met, a short conversation ensued on the time when the grand question should be taken. It was agreed that it should not be until Tuesday. After this conversation subsided, another took place on the division of the motion, in order that the question of ratifying might be considered separately from the amendments; but nothing final was determined upon.]

Judge DANA advocated the proposition submitted by his excellency, the president. It contained, he said, the amendments generally wished for, as they were not of a local nature, but extended to every part of the Union. If they were recommended to be adopted by this Convention, it was very probable that two thirds of the Congress would concur in promising them; or that two thirds of the legislatures of the several states would apply for the call of a convention to consider them, agreeably to the mode pointed out in the Constitution; and said he did not think that gentle-

men would wish to reject the whole of the system, because some part of it did not please them. He then went into a consideration of the advantages which would ensue, from its adoption, to the United States, to the individual states, and to the several classes of citizens, and concluded by representing, in a lively manner, the evils to the whole continent, and to the Northern States in particular, which must be the unavoidable attendants on the present system of general government.

Mr. RUSSELL rose, he said, with diffidence, to offer his sentiments on the subject in debate; but he could not, he said, forbear to give his sentiments on the advantage which he apprehended must result from the adoption of the proposed Constitution to this state, and to the United States, in the advancement of their commerce. Mr. R. said, he believed it had always been the policy of trading nations to secure to themselves the advantages of their carrying trade. He observed how tenacious France, Holland, and England, were in this particular, and how beneficial it had proved to them. He then went into an accurate and interesting statement of the quantities of produce which were exported from the several states, and showed the ability of the states to furnish, from among themselves, shipping fully sufficient for the transportation of this produce; which, he observed, if confined, by the general government, to American vessels,—while the restriction would not increase the rates of freightage to the Southern States, as the Northern and Middle States could produce a surplusage of shipping, and a spirit of competition would call forth their resources,—would greatly increase our navigation; furnish us with a great nursery of seamen; give employment not only to the mechanics, in constructing the vessels, and the trades dependent thereon, but to the husbandmen, in the cutting down of trees for timber, and transporting them to the places of building; increase the demand for the products of the land, and for our beef, our pork, our butter, &c.; and give such life and spirit to our commerce as would extend it to all the nations of the world. These, he said, were some of the blessings he anticipated from the adoption of the federal Constitution; and so convinced was he of its utility and necessity, that, while he wished that, on the grand question being put, there might not be one dissenting voice, if he was allowed, he would hold

up both hands in favor of it; and he concluded, if his left hand was unwilling to be extended with his right, in this all-important decision, he would cut it off, as unworthy of him, and lest it should infect his whole body.

Mr. PIERCE. Mr. President, the amendments proposed by your excellency are very agreeable to my opinion, and I should wish to add several more, but will mention but one; and that is, that the Senate should not continue in office more than two years. But, sir, I think that, if the want of these amendments were sufficient for me to vote against the Constitution, the addition, in the manner proposed by your excellency, will not be sufficient for me to vote for it, as it appears to me to be very uncertain whether they ever are a part of the Constitution.

Several gentlemen said a few words each, on the proposition of amendments, which it was acceded to, by gentlemen opposed to the Constitution, was good, but that it was not probable it would be interwoven in the Constitution. Gentlemen on the other side said there was a great probability that it would, from its nature, be also recommended by the several conventions which have not yet convened.

SATURDAY, *February 2.*—The Hon. Mr. STRONG went into a particular discussion of the several amendments recommended in the proposition submitted by his excellency, each of which he considered with much attention. He anticipated the good effect it must have in conciliating the various sentiments of gentlemen on the subject, and expressed his firm belief that, if it was recommended by the Convention, it would be inserted in the Constitution.

Gen. THOMPSON said, we have no right to make amendments. It was not, he said, the business we were sent for. He was glad, he said, that gentlemen were now convinced it was not a perfect system, and that it wanted amendments. This, he said, was different from the language they had formerly held. However, as to the amendments, he could not say amen to them, but they might be voted for by some men—he did not say Judases.

Mr. PARSONS, Col. ORNE, Mr. PHILLIPS, the Rev. Mr. NILES, and several other gentlemen, spoke in favor of the proposition, as a conciliatory measure, and the probability of the amendments being adopted. Mr. NASSON, Dr. TAYLOR, Mr. THOMAS, (of Middleboro',)

and others, though in sentiment with gentlemen on the propriety of their being admitted into the Constitution, did not think it was probable they would be inserted.

Before the Convention adjourned, Gen. Whitney moved that a committee, consisting of two from each county, should be raised, to consider the amendments, or any other that might be proposed, and report thereon. Hon. Mr. Sedgwick seconded the motion.

Hon. Mr. DALTON. Mr. President, I am not opposed to the motion; but, sir, that gentlemen may not again say, as has been the case this day, that the gentlemen who advocate the measure of the proposition were now convinced that amendments to the Constitution are indispensable, I, sir, in my place, say, that I am willing to accept the Constitution as it is; and I am in favor of the motion of proposing amendments, only as it is of a conciliating nature, and not as a concession that amendments are necessary.

The motion was put, and carried unanimously. The following gentlemen were then appointed on the said committee, viz.:—

Hon. Mr. Bowdoin, Mr. Southworth, Mr. Parsons, Hon. Mr. Hutchinson—Hon. Mr. Dana, Mr. Winn—Hon. Mr. Strong, Mr. Bodman—Hon. Mr. Turner, Mr. Thomas, of Plymouth—Dr. Smith, Mr. Bourn—Hon. Mr. Spooner, Mr. Bishop—Rev. Dr. Hemmenway, Mr. Barrell—Mr. Mayhew, Hon. Mr. Taylor, Hon. Mr. Sprague—Mr. Fox, Mr. Longfellow—Mr. Sewall, Mr. Sylvester—Mr. Lusk, Hon. Mr. Sedgwick.

MONDAY, *February 4*, P. M.—Rev. Mr. THACHER. Mr. President, while the different paragraphs of the proposed Constitution have been debated, I have not troubled this honorable Convention with any observations of my own upon the subject. Conscious that there were men of deeper political knowledge, and of better abilities, than myself, I conceived it my duty to attend to their instruction, that, having heard with attention, I might decide with integrity. I view the object before us as of greater moment than ever was known within the memory of man, or that hath been recorded by the historic page. Were we, Mr. President, this day to decide on the lives and fortunes of a hundred of the best citizens of this commonwealth, solemn would that province be; but much more interesting is the present question;

for, in this case, not a single city, not a single state, but a continent, wide and extended, may be happy or wretched, according to our judgment; and posterity will either bless us for laying the foundation of a wise and equal government, or curse us for neglecting their important interests, and for forging chains for them, when we disdained to wear them ourselves. Having, therefore, as I trust, a full view of the magnitude of the object, I hope I shall be pardoned if I offer my sentiments with freedom. I am sensible of the prejudices that subsist against the profession to which I belong; but yet, intrusted by my constituents with a solemn charge, I think they have a right to expect from me the reasons why I shall finally consent to ratify the proposed form of government.

There are three circumstances which deserve notice in considering the subject. These are, the necessity that all the states have of some general bond of union; the checks upon the government in the form offered for our adoption; and, lastly, the particular disadvantages to which we shall be exposed if we reject it.

With respect to the first of these considerations, I trust there is no man in his senses, but what will own, that the whole country hath largely felt the want of energy in the general government. While we were at war with Britain, common danger produced a common union; but, the cause being removed, the effect ceased also. Nay, I do not know but we may safely add, that that union, produced by uniform danger, was still inadequate to general and national purposes. This commonwealth, with a generous, disinterested regard to the good of the whole, appeared foremost in the day of danger. At the conclusion of the late war, two thirds of the Continental army were from Massachusetts; their provision and their clothing proceeded, also, in a great measure, from our extraordinary exertions. The people did this in the fullest confidence, that, when peace and tranquillity were restored, from the honor and justice of our sister states our supererogatory expenses would be abundantly repaid. But, alas! how much hath our expectation been blasted! The Congress, though willing, yet had no power to do us justice. The small district of Rhode Island put a negative upon the collected wisdom of the continent. This was done, not by those who are the patrons of their present infamous system of

paper currency, but by that part of them who now call themselves honest men. We have made exertions to stop the importation of foreign luxuries. Our brethren in the neighboring states, from the view of local advantages, have taken occasion to distress us upon the same account. They have encouraged where we have prohibited; and by those iniquitous measures have made our virtue and public spirit an additional cause of our calamity. Nor have our calamities been local; they have reached to all parts of the United States, and have produced dissipation and indigence at home, and contempt in foreign countries. On the one hand, the haughty Spaniard has deprived us of the navigation of the River Mississippi; on the other, the British nation are, by extravagant duties, ruining our fishery. Our sailors are enslaved by the pirates of Algiers. Our credit is reduced to so low an ebb, that American faith is a proverbial expression for perfidy, as Punic faith was among the Romans. Thus have we suffered every species of infamy abroad, and poverty at home. Such, in fact, have been our calamities, as are enough to convince the most skeptical among us of the want of a general government, in which energy and vigor should be established, and at the same time, the rights and liberties of the people preserved.

A Constitution hath been presented to us, which was composed and planned by men, who, in the council and field, have, in the most conspicuous offices, served their country in the late war. It comes authenticated by a man who, without any pecuniary reward, commanded our army, and who retired to a private station with more pleasure than he left it. I do not say, Mr. President, that this proves the form of government to be perfect, or that it is an unanswerable argument that we should adopt it; but it is a reason why we should examine it with care and caution, and that we ought not rashly and precipitately to reject it.

It will be objected, "There are more powers granted than are necessary, and that it tends to destroy the local governments of the particular states, and that it will eventually end either in aristocracy or despotism." To answer the objection, two considerations should be taken into view — the situation of the continent when a Constitution was formed, and the impossibility of preserving a perfect sovereignty in the states, after necessary powers were ceded to a

supreme council of the whole. As to the first, let us candidly examine the state of these republics from New Hampshire to Georgia, and see how far vigor and energy were required. During the session of the late Convention, Massachusetts was on the point of civil war. In Vermont and New Hampshire, a great disaffection to their several governments prevailed among the people. New York absolutely refused complying with the requisitions of Congress. In Virginia, armed men endeavored to stop the courts of justice. In South Carolina, creditors, by law, were obliged to receive barren and useless land for contracts made in silver and gold. I pass over the instance of Rhode Island: their conduct was notorious. In some states, laws were made directly against the treaty of peace; in others, statutes were enacted which clashed directly against any federal union — new lands sufficient to discharge a great part of the Continental debt intruded upon by needy adventurers — our frontier settlements exposed to the ravages of the Indians — while the several states were unable or unwilling to relieve their distress. Lay all those circumstances together, and you will find some apology for those gentlemen who framed this Constitution. I trust you may charitably assign other motives for their conduct, than a design to enslave their country, and to parcel out for themselves its honors and emoluments.

The second consideration deserves its weight. Can these local governments be sufficient to protect us from foreign enemies, or from disaffection at home? Thirteen states are formed already. The same number are probably to be formed from the lands not yet cultivated.

Of the former, yet smaller divisions may be made. The province of Maine hath desired a separation; in time, a separation may take place. Who knows but what the same may happen with respect to the old colony of Plymouth. Now, conceive the number of states increased, their boundaries lessened, their interests clashing; how easy a prey to a foreign power! how liable to war among themselves!

Let these arguments be weighed, and I dare say, sir, there is no man but what would conceive that a coercive power over the whole, searching through all parts of the system, is necessary to the preservation and happiness of the whole people.

But I readily grant all these reasons are not sufficient to

surrender up the essential liberties of the people. But do we surrender them? This Constitution hath been compared, both by its defenders and opponents, to the British government. In my view of it, there is a great difference. In Britain, the government is said to consist of three forms—monarchy, aristocracy, and democracy; but, in fact, is at a few removes from absolute despotism. In the crown is vested the power of adding at pleasure to the second branch; of nominating to all the places of honor and emolument; of purchasing, by its immense revenues, the suffrages of the House of Commons. The voice of the people is but the echo of the king; and their boasted privileges lie entirely at his mercy. In this proposed form, each branch of power is derived, either mediately or directly, from the people. The lower house are elected directly by those persons who are qualified to vote for the representatives of the state; and, at the expiration of two years, become private men, unless their past conduct entitles them to a future election. The Senate are elected by the legislatures of the different states, and represent their sovereignty.

These powers are a check on each other, and can never be made either dependent on one another, or independent of the people. The President is chosen by the electors, who are appointed by the people. The high courts of justice arise from the President and Senate; but yet the ministers of them can be removed only upon bad behavior. The dependence of judges is one of the most favorable circumstances to public liberty; for when they become the slaves of a venal, corrupt court, and the hirelings of tyranny, all property is precarious, and personal security at an end; a man may be stripped of all his possessions, and murdered, without the forms of law. Thus it appears that all parts of this system arise ultimately from the people, and are still dependent of each other. There are other restraints, which, though not directly named in this Constitution, yet are evidently discerned by every man of common observation. These are, the government of the several states, and the spirit of liberty in the people. Are we wronged or injured, our immediate representatives are those to whom we ought to apply. Their power and influence will still be great. But should any servants of the people, however eminent in their stations, attempt to enslave them, from this spirit of

liberty such opposition would arise as would bring them to the scaffold. But, admitting that there are dangers in accepting this general government; yet are there not greater hazards in rejecting it? Such is, Mr. President, the state of our affairs, that it is not in our power to carve for ourselves. To avoid the greatest and choose the least of these two evils, is all that we can do. What, then, will be the probable effects if this Constitution be rejected? Have we not reason to fear new commotions in this commonwealth? If they arise, can we be always certain that we shall be furnished with a citizen, who, though possessed of extensive influence and the greatest abilities, will make no other use of them than to quiet the tumult of the people, to prevent civil war, and to restore the usual course of law and justice? Are we not in danger from other states, when their interests or prejudices are opposite to ours? And in such scenes of hostile contention, will not some Sylla drench the land in blood, or some Cromwell or Cæsar lay our liberties prostrate at his feet? Will not foreign nations attack us in our weak, divided condition, and once more render us provinces to some potentate of Europe? Or will those powers to whom we are indebted lie quiet? They certainly will not. They are now waiting for our decision; but when they once see that our union is broken, and that we are determined to neglect them, they will issue out letters of marque and reprisal, and entirely destroy our commerce.

If this system is broken up, will thirteen, or even nine states, ever agree to another? And will Providence smile on a people who despise the privileges put into their hands, and who neglect the plainest principles of justice and honesty? After all, I by no means pretend that there is complete perfection in this proposed Constitution. Like all other human productions, it hath its faults. Provision is made for an amendment, whenever, from practice, it is found oppressive. I would add, the proposals which his excellency has condescended to lay before this honorable Convention, respecting future alterations, are real improvements for the better; and we have no reason to doubt but they will be equally attended to by other states, as they lead to common security and preservation.

Some of the gentlemen in the opposition have quoted ancient history, and applied it to the question now under

debate. They have shown us the danger which arises from vesting magistrates with too much power. I wish they had gone on to tell the whole truth. They might have shown how nearly licentiousness and tyranny are allied; that they who will not be governed by reason must submit to force; that demagogues, in all free governments, have at first held out an idea of extreme liberty, and have seized on the rights of the people under the mask of patriotism. They might have shown us a republic in which wisdom, virtue, and order, were qualities for which a man was liable to banishment; and, on the other hand, boasting, sedition, and falsehood, the sure road to honor and promotion.

I am sorry that it hath been hinted by some gentlemen in this house, as if there were a combination of the rich, the learned, and those of liberal professions, to establish and support an arbitrary form of government. Far be it from me to retort so uncharitable and unchristian a suggestion. I doubt not but the gentlemen who are of different sentiments from myself, are actuated by the purest motives. Some of them I have the pleasure to be particularly acquainted with, and can safely pronounce them to be men of virtue and honor. They have, no doubt, a laudable concern for the liberties of their country; but I would beg them to remember that extreme jealousy and suspicion may be as fatal to freedom as security and negligence.

With respect to myself, I am conscious of no motive which guides me in this great and solemn question, but what I could justify to my own heart, both on the bed of death, and before the tribunal of omnipotence. I am a poor man; I have the feelings of a poor man. If there are honors and emoluments in this proposed Constitution, I shall, by my profession and circumstances in life, be forever excluded from them. It is my wish and prayer, that, in the solemn verdict we are very soon to pronounce, we may be directed to that measure which will be for the glory, freedom, and felicity of my country.

I shall trouble this house no further than by joining sincerely in the wish of the honorable gentleman from Topsam, that the people, in their day, may know the things which belong to their peace.

[The committee appointed, on Saturday, to consider his excellency's propositions, by their chairman, honorable Mr

Bowdoin, reported a few alterations to the amendments submitted to them; and that, at the decision, the committee consisted of twenty-four, fifteen of whom agreed in the report, seven were against it, one was absent, and one declined giving his opinion. For the report, see the form of ratification, at the end of the debates.]

Major LUSK concurred in the idea already thrown out in the debate, that, although the insertion of the amendments in the Constitution was devoutly wished, yet he did not see any reason to suppose they ever would be adopted. Turning from the subject of amendments, the major entered largely into the consideration of the 9th section, and, in the most pathetic and feeling manner, described the miseries of the poor natives of Africa, who are kidnapped and sold for slaves. With the brightest colors he painted their happiness and ease on their native shores, and contrasted them with their wretched, miserable, and unhappy condition, in a state of slavery. From this subject he passed to the article dispensing with the qualification of a religious test, and concluded by saying, that he shuddered at the idea that Roman Catholics, Papists, and Pagans might be introduced into office, and that Popery and the Inquisition may be established in America.

Rev. Mr. BACKUS. Mr. President, I have said very little in this honorable Convention; but I now beg leave to offer a few thoughts upon some points in the Constitution proposed to us, and I shall begin with the exclusion of any religious test. Many appear to be much concerned about it; but nothing is more evident, both in reason and the Holy Scriptures, than that religion is ever a matter between God and individuals; and, therefore, no man or men can impose any religious test, without invading the essential prerogatives of our Lord Jesus Christ. Ministers first assumed this power under the Christian name; and then Constantine approved of the practice, when he adopted the profession of Christianity, as an engine of state policy. And let the history of all nations be searched from that day to this, and it will appear that the imposing of religious tests hath been the greatest engine of tyranny in the world. And I rejoice to see so many gentlemen, who are now giving in their rights of conscience in this great and important matter. Some serious minds discover a concern lest, if all religious tests

should be excluded, the Congress would hereafter establish Popery, or some other tyrannical way of worship. But it is most certain that no such way of worship can be established without any religious test.

Much, sir, hath been said about the importation of *slaves* into this country. I believe that, according to my capacity, no man abhors that wicked practice more than I do; I would gladly make use of all lawful means towards the abolishing of slavery in all parts of the land. But let us consider where we are, and what we are doing. In the Articles of Confederation, no provision was made to hinder the importation of slaves into any of these states; but a door is now open hereafter to do it, and each state is at liberty now to abolish slavery as soon as they please. And let us remember our former connection with Great Britain, from whom many in our land think we ought not to have revolted. How did they carry on the slave trade? I know that the bishop of Gloucester, in an annual sermon in London, in February, 1776, endeavored to justify their tyrannical claims of power over us by casting the reproach of the slave trade upon the Americans. But at the close of the war, the bishop of Chester, in an annual sermon, in February, 1783, ingenuously owned that their nation is the most deeply involved in the guilt of that trade of any nation in the world; and, also, that they have treated their slaves in the West Indies worse than the French or Spaniards have done theirs. Thus slavery grows more and more odious through the world; and, as an honorable gentleman said some days ago, "Though we cannot say that slavery is struck with an apoplexy, yet we may hope it will die with a consumption." And a main source, sir, of that iniquity, hath been an abuse of the covenant of circumcision, which gave the seed of Abraham to destroy the inhabitants of Canaan, and to take their houses, vineyards, and all their estates, as their own; and also to buy and hold others as servants. And, as Christian privileges are greater than those of the Hebrews were, many have imagined that they have a right to seize upon the lands of the heathen, and to destroy or enslave them as far as they could extend their power. And from thence the mystery of iniquity carried many into the practice of making merchandise of slaves and souls of men. But all ought to remember that, when God promised the land of Canaan to Abraham and his seed, he

let him know that they were not to take possession of that land until the iniquity of the Amorites was full; and then they did it under the immediate direction of Heaven; and they were as real executors of the judgment of God upon those heathens as any person ever was an executor of a criminal justly condemned. And in doing it they were not allowed to invade the lands of the Edomites, who sprang from Esau, who was not only of the seed of Abraham, but was born at the same birth with Israel; and yet they were not of that church. Neither were Israel allowed to invade the lands of the Moabites, or of the children of Ammon, who were of the seed of Lot. And no officer in Israel had any legislative power, but such as were immediately inspired. Even David, the man after God's own heart, had no legislative power, but only as he was inspired from above; and he is expressly called a *prophet* in the New Testament. And we are to remember that Abraham and his seed, for four hundred years, had no warrant to admit any stranger into that church, but by buying of him as a servant, with money. And it was a great privilege to be bought, and adopted into a religious family for seven years, and then to have their freedom. And that covenant was expressly repealed in various parts of the New Testament, and particularly in the First Epistle to the Corinthians, where it is said, "Ye are bought with a price; therefore glorify God in your body, and in your spirit, which are God's." And again, "Circumcision is nothing, and uncircumcision is nothing, but keeping of the commandments of God. Ye are bought with a price; be not ye the servants of men." Thus the gospel sets all men upon a level, very contrary to the declaration of an honorable gentleman in this house, that "the Bible was contrived for the advantage of a particular order of men."

Another great advantage, sir, in the Constitution before us, is, its excluding all titles of nobility, or hereditary succession of power, which hath been a main engine of tyranny in foreign countries. But the American revolution was built upon the principle that all men are born with an equal right to liberty and property, and that officers have no right to any power but what is fairly given them by the consent of the people. And in the Constitution now proposed to us, power is reserved to the people constitutionally to reduce every officer again to a private station; and what a guard is

his against their invasion of others' rights, or abusing of their power! Such a door is now opened for the establishment of righteous government, and for securing equal liberty, as never was before opened to any people upon earth.

Dr. JARVIS. Mr. President, the objections which gentlemen have made to the form of ratification which has been submitted by your excellency, have arisen either from a doubt of our having a right to propose alterations, or from the supposed improbability that any amendments recommended by this assembly will ever become a part of the federal system. If we have no right, sir, to propose alterations, there remains nothing further to be attempted, but to take the final question, independent of the propositions for amendment. But hope the mere assertion of any one is not to operate as an argument in this assembly; and we are not yet waiting for evidence to prove this very singular position, which has been so often repeated. If we have a right, sir, to receive or reject the Constitution, surely we have an equal authority to determine in what way this right shall be exercised. It is a maxim, I believe, universally admitted, that, in every instance, the manner in which every power is to be exerted, must be in its nature discretionary with that body to which this power is delegated. If this principle be just, sir, the ground which has been taken to oppose your excellency's proposals, by disputing the right of recommending alterations, must be necessarily relinquished. But gentlemen say, that they find nothing about amendments in the commission under which they are acting, and they conceive it neither agreeable to the resolution of the legislature, nor to the sense of their constituents, that such a scheme should be adopted. Let us inquire, then, sir, under what authority we are acting, and to what tribunal we are amenable. Is it, then, sir, from the late Federal Convention that we derive that authority? Is it from Congress, or is it even from the legislature itself? It is from neither, sir. We are convened in right of the people, as their immediate representatives, to execute the most important trust which it is possible to receive; we are accountable, in its execution, to God only, and our own consciences. When gentlemen assert, then, that we have no right to recommend alterations, they must have ideas strangely derogatory to the influence and authority of our constituents, whom we have the honor of representing. But should it be

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thought there was even a part of the people who conceived we were thus restricted as to the forms of our proceedings, we are still to recollect that their aggregate sense, on this point, can only be determined by the voices of the majority in this Convention. The arguments of those gentlemen who oppose any propositions of amendments, amount simply to this, sir,—that the whole people of Massachusetts, assembled by their delegates, on the most solemn and interesting occasion, are not at liberty to resolve in what form this trust shall be executed. When we reflect seriously and coolly on this point, I think, sir, we shall doubt no longer.

But, with respect to the prospect of these amendments, which are the subject of discussion, being adopted by the first Congress which shall be appointed under the new Constitution, I really think, sir, that it is not only far from being improbable, but is in the highest degree likely. I have thought long and often on the subject of amendments, and I know no way in which they would be more likely to succeed. If they were made conditional to our receiving the proposed Constitution, it has appeared to me that a conditional amendment must operate as a total rejection. As so many other states have received the Constitution as it is, how can it be made to appear that they will not adhere to their own resolutions? and should they remain as warmly and pertinaciously attached to their opinion as we might be decidedly in favor of our own sentiments, a long and painful interval might elapse before we should have the benefit of a federal Constitution. I have never yet heard an argument to remove this difficulty. Permit me to inquire of gentlemen what reason we have to suppose that the states which have already adopted the Constitution will suddenly consent to call a new convention at the request of this state. Are we going to expose the commonwealth to the disagreeable alternative of being forced into a compliance, or of remaining in opposition, provided nine others should agree to receive it? As highly as some persons talk of the force of this state, I believe we should be but a feeble power, unsisted by others, and detached from the general benefit of a national government. We are told that, under the blessing of Providence, we may do much. It is very true, sir, but it must be proved that we shall be most likely to secure the approbation of Heaven by refusing the proposed system.

It has been insinuated, sir, that these amendments have been artfully introduced to lead to a decision which would not otherwise be had. Without stopping to remark on the total want of candor in which such an idea has arisen, let us inquire whether there is even the appearance of reason to support this insinuation. The propositions are annexed, it is true, to the ratification ; but the assent is complete and absolute without them. It is not possible it can be otherwise understood by a single member in this honorable body. Gentlemen, therefore, when they make such an unjust observation, do no honor to the sagacity of others. Supposing it possible that any single member can be deceived by such a shallow artifice, permit me to do justice to the purity of intention in which they have arisen, by observing, that I am satisfied nothing can be farther from your excellency's intentions. The propositions are general, and not local ; they are not calculated for the peculiar interest of this state, but, with indiscriminate justice, comprehend the circumstances of the individual on the banks of the Savannah, as well as the hardy and industrious husbandman on the margin of the Kennebeck. Why, then, they should not be adopted, I confess I cannot conceive. There is one of them, in a particular manner, which is very agreeable to me. When we talk of our wanting a bill of rights to the new Constitution, the first article proposed must remove every doubt on this head ; as, by positively securing what is not expressly delegated, it leaves nothing to the uncertainty of conjecture, or to the refinements of implication, but is an explicit reservation of every right and privilege which is nearest and most agreeable to the people. There has been scarcely an instance where the influence of Massachusetts has not been felt and acknowledged in the Union. In such a case, her voice will be heard, sir, and I am fully in sentiment, if these amendments are not ingrafted on the Constitution, it will be our own fault. The remaining seven states will have our example before them ; and there is a high probability that they, or at least some of them, will take our conduct as a precedent, and will perhaps assume the same mode of procedure. Should this be the fact, their influence will be united to ours. But your delegates will, besides, be subjected to a perpetual instruction, until its object is completed ; and it will be always in the power of the people and

legislature to renew those instructions. But, if they should fall, we must then acquiesce in the decision of the majority; and this is the known condition on which all free governments depend.

Would gentlemen who are opposed to the Constitution wish to have no amendments? This does not agree with their reiterated objections to the proposed system. Or are they afraid, sir, that these propositions will secure a larger majority? On such an occasion we cannot be too generally united. The Constitution is a great political experiment. The amendments have a tendency to remove many objections which have been made to it; and I hope, sir, when it is adopted, they will be annexed to the ratification, in the manner which your excellency has proposed.

TUESDAY, *February 5.*—Mr. AMES observed that, at length, it is admitted that the Constitution, connected with the amendments, is good. Almost every one, who has appeared against the Constitution, has declared that he approves it, with the *amendments*. One gentleman, who has been distinguished by his zealous opposition, has declared that he would hold up both hands for it, if they could be adopted. I admire this candid manner of discussing the subject, and will endeavor to treat it myself with equal care and fairness. The only question which seems to labor is this: the amendments are not a part of the Constitution, and there is nothing better than a probability to trust to, that they will ever be adopted. The nature of the debate is totally shifted, and the inquiry is now, not what the Constitution is, but what degree of probability there is that the amendments will hereafter be incorporated into it.

Before he proceeded to discuss this question, he wished to notice two objections, which had been urged against his excellency's proposition — that this Convention, being confined in their powers to reject or ratify the Constitution as it is, have no right to propose amendments; and that the very propositions imply the Constitution is not perfect, and amount to a confession that it ought to be rejected. It is well that these objections were not made by a lawyer: they would have been called quibbles, and he would have been accused of having learned them at the bar. Have we no right to propose amendments? This is the fullest representation of the people ever known, and if we may not declare their opin-

ion, and upon a point for which we have been elected, how shall it ever be known? A majority may not fully approve the Constitution, and yet they may think it unsafe to reject it; and they may fully approve his excellency's propositions. What shall they say? That they accept, or reject, and no more? — that they be embarrassed, perhaps, to do either. But let them say the truth, that they accept it, in the hope that amendments will obtain. We are chosen to consider the Constitution, and it is clearly incident to our appointment to declare the result of our deliberations. This very mode of obtaining amendments is pointed out in the Constitution itself. How can it be said that we have no right to propose them? If, however, there was any irregularity in this proceeding, the General Court would not delay to conform it.

If it is insisted that the Constitution is admitted to be imperfect, let those objectors consider the nature of their own argument. Do they expect a perfect constitution? Do they expect to find that perfection in government which they well know is not to be found in nature? There is not a man who is not more or less discontented with his condition in life, and who does not experience a mixture of good and evil; and will he expect that a whole society of men can exclude that imperfection which is the lot of every individual in it? The truth is, we call that condition good and happy, which is so upon the whole. But this Constitution may be good without any amendments, and yet the amendments may be good; for they are not repugnant to the Constitution. It is a gratification to observe how little we disagree in our sentiments; but it is not my purpose to compare the amendments with the Constitution. Whatever opinion may be formed of it by others, Mr. Ames professed to think it comparatively perfect. There was not any government which he knew to subsist, or which he had ever heard of, that would bear a comparison with the new Constitution. Considered merely as a literary performance, it was an honor to our country: legislators have at length condescended to speak the language of philosophy; and if we adopt it, we shall demonstrate to the sneering world, who deride liberty because they have lost it, that the principles of our government are as free as the spirit of our people.

I repeat it, our debates have been profitable, because,

legislature to renew those instructions. But, if they should fall, we must then acquiesce in the decision of the majority ; and this is the known condition on which all free governments depend.

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government, and seem to think ourselves in safety under its protection. We talk as if there was no danger in deciding wrong. But when the inundation comes, shall we stand on dry land? The state government is a beautiful structure. It is situated, however, upon the naked beach. The Union is the dike to fence out the flood. That dike is broken and decayed; and, if we do not repair it, when the next spring tide comes, we shall be buried in one common destruction.

Mr. BARRELL, (of York.) Awed in the presence of this august assembly; conscious of my inability to express my mind fully on this important occasion; and sensible how little I must appear in the eyes of those giants in rhetoric, who have exhibited such a pompous display of declamation; without any of those talents calculated to draw attention; without the pleasing eloquence of Cicero, or the blaze of Demosthenian oratory,—I rise, sir, to discharge my duty to my constituents, who, I know, expect something more from me than merely a silent vote. With no pretensions to talents above the simple language adapted to the line of my calling,—the plain husbandman,—I hope the gentlemen who compose this honorable body will fully understand me when I attempt to speak my mind of the federal Constitution as it now stands. I wish, sir, to give my voice for its amendment before it can be salutary for our acceptance; because, sir, notwithstanding the Wilsonian oratory, and all the learned arguments I have seen written, notwithstanding the many labored speeches I have heard in its defence, and after the best investigation I am able to give this subject,—I fear it is pregnant with baneful effects, although I may not live to feel them.

Because, sir, as it now stands, Congress will be vested with more extensive powers than ever Great Britain exercised over us; too great, in my opinion, to intrust with any class of men, let their talents or virtues be ever so conspicuous, even though composed of such exalted, amiable characters as the great Washington; for, while we consider them as men of like passions, the same spontaneous, inherent thirst for power with ourselves, great and good as they may be, when they enter upon this all-important charge, what security can we have that they will continue so? And, were we sure they would continue the faithful guardians of our liberties, and prevent any infringement on the privileges of

up both hands in favor of it; and he concluded, if his left hand was unwilling to be extended with his right, in this all-important decision, he would cut it off, as unworthy of him, and lest it should infect his whole body.

Mr. PIERCE. Mr. President, the amendments proposed by your excellency are very agreeable to my opinion, and I should wish to add several more, but will mention but one; and that is, that the Senate should not continue in office more than two years. But, sir, I think that, if the want of these amendments were sufficient for me to vote against the Constitution, the addition, in the manner proposed by your excellency, will not be sufficient for me to vote for it, as it appears to me to be very uncertain whether they ever are a part of the Constitution.

Several gentlemen said a few words each, on the proposition of amendments, which it was acceded to, by gentlemen opposed to the Constitution, was good, but that it was not probable it would be interwoven in the Constitution. Gentlemen on the other side said there was a great probability that it would, from its nature, be also recommended by the several conventions which have not yet convened.

SATURDAY, *February 2.*—The Hon. Mr. STRONG went into a particular discussion of the several amendments recommended in the proposition submitted by his excellency, each of which he considered with much attention. He anticipated the good effect it must have in conciliating the various sentiments of gentlemen on the subject, and expressed his firm belief that, if it was recommended by the Convention, it would be inserted in the Constitution.

Gen. THOMPSON said, we have no right to make amendments. It was not, he said, the business we were sent for. He was glad, he said, that gentlemen were now convinced it was not a perfect system, and that it wanted amendments. This, he said, was different from the language they had formerly held. However, as to the amendments, he could not say amen to them, but they might be voted for by some men—he did not say Judases.

Mr. PARSONS, Col. ORNE, Mr. PHILLIPS, the Rev. Mr. NILES, and several other gentlemen, spoke in favor of the proposition, as a conciliatory measure, and the probability of the amendments being adopted. Mr. NASSON, Dr. TAYLOR, Mr. THOMAS, (of Middleboro',

and others, though in sentiment with gentlemen on the propriety of their being admitted into the Constitution, did not think it was probable they would be inserted.

Before the Convention adjourned, Gen. Whitney moved that a committee, consisting of two from each county, should be raised, to consider the amendments, or any other that might be proposed, and report thereon. Hon. Mr. Sedgwick seconded the motion.

Hon. Mr. DALTON. Mr. President, I am not opposed to the motion; but, sir, that gentlemen may not again say, as has been the case this day, that the gentlemen who advocate the measure of the proposition were now convinced that amendments to the Constitution are indispensable, I, sir, in my place, say, that I am willing to accept the Constitution as it is; and I am in favor of the motion of proposing amendments, only as it is of a conciliating nature, and not as a concession that amendments are necessary.

The motion was put, and carried unanimously. The following gentlemen were then appointed on the said committee, viz.: —

Hon. Mr. Bowdoin, Mr. Southworth, Mr. Parsons, Hon. Mr. Hutchinson — Hon. Mr. Dana, Mr. Winn — Hon. Mr. Strong, Mr. Bodman — Hon. Mr. Turner, Mr. Thomas, of Plymouth — Dr. Smith, Mr. Bourn — Hon. Mr. Spooner, Mr. Bishop — Rev. Dr. Hemmenway, Mr. Barrell — Mr. Mayhew, Hon. Mr. Taylor, Hon. Mr. Sprague — Mr. Fox, Mr. Longfellow — Mr. Sewall, Mr. Sylvester — Mr. Lusk, Hon. Mr. Sedgwick.

MONDAY, *February 4*, P. M. — Rev. Mr. THACHER. Mr. President, while the different paragraphs of the proposed Constitution have been debated, I have not troubled this honorable Convention with any observations of my own upon the subject. Conscious that there were men of deeper political knowledge, and of better abilities, than myself, I conceived it my duty to attend to their instruction, that, having heard with attention, I might decide with integrity. I view the object before us as of greater moment than ever was known within the memory of man, or that hath been recorded by the historic page. Were we, Mr. President, this day to decide on the lives and fortunes of a hundred of the best citizens of this commonwealth, solemn would that province be; but much more interesting is the present question;

for, in this case, not a single city, not a single state, but a continent, wide and extended, may be happy or wretched, according to our judgment; and posterity will either bless us for laying the foundation of a wise and equal government, or curse us for neglecting their important interests, and for forging chains for them, when we disdained to wear them ourselves. Having, therefore, as I trust, a full view of the magnitude of the object, I hope I shall be pardoned if I offer my sentiments with freedom. I am sensible of the prejudices that subsist against the profession to which I belong; but yet, intrusted by my constituents with a solemn charge, I think they have a right to expect from me the reasons why I shall finally consent to ratify the proposed form of government.

There are three circumstances which deserve notice in considering the subject. These are, the necessity that all the states have of some general bond of union; the checks upon the government in the form offered for our adoption; and, lastly, the particular disadvantages to which we shall be exposed if we reject it.

With respect to the first of these considerations, I trust there is no man in his senses, but what will own, that the whole country hath largely felt the want of energy in the general government. While we were at war with Britain, common danger produced a common union; but, the cause being removed, the effect ceased also. Nay, I do not know but we may safely add, that that union, produced by uniform danger, was still inadequate to general and national purposes. This commonwealth, with a generous, disinterested regard to the good of the whole, appeared foremost in the day of danger. At the conclusion of the late war, two thirds of the Continental army were from Massachusetts; their provision and their clothing proceeded, also, in a great measure, from our extraordinary exertions. The people did this in the fullest confidence, that, when peace and tranquillity were restored, from the honor and justice of our sister states our supernumerary expenses would be abundantly repaid. But, alas! how much hath our expectation been blasted! The Congress, though willing, yet had no power to do us justice. The small district of Rhode Island put a negative upon the collected wisdom of the continent. This was done, not by those who are the patrons of their present infamous system of

paper currency, but by that part of them who now call themselves honest men. We have made exertions to stop the importation of foreign luxuries. Our brethren in the neighboring states, from the view of local advantages, have taken occasion to distress us upon the same account. They have encouraged where we have prohibited; and by those iniquitous measures have made our virtue and public spirit an additional cause of our calamity. Nor have our calamities been local; they have reached to all parts of the United States, and have produced dissipation and indigence at home, and contempt in foreign countries. On the one hand, the haughty Spaniard has deprived us of the navigation of the River Mississippi; on the other, the British nation are, by extravagant duties, ruining our fishery. Our sailors are enslaved by the pirates of Algiers. Our credit is reduced to so low an ebb, that American faith is a proverbial expression for perfidy, as Punic faith was among the Romans. Thus have we suffered every species of infamy abroad, and poverty at home. Such, in fact, have been our calamities, as are enough to convince the most skeptical among us of the want of a general government, in which energy and vigor should be established, and at the same time, the rights and liberties of the people preserved.

A Constitution hath been presented to us, which was composed and planned by men, who, in the council and field, have, in the most conspicuous offices, served their country in the late war. It comes authenticated by a man who, without any pecuniary reward, commanded our army, and who retired to a private station with more pleasure than he left it. I do not say, Mr. President, that this proves the form of government to be perfect, or that it is an unanswerable argument that we should adopt it; but it is a reason why we should examine it with care and caution, and that we ought not rashly and precipitately to reject it.

It will be objected, "There are more powers granted than are necessary, and that it tends to destroy the local governments of the particular states, and that it will eventually end either in aristocracy or despotism." To answer the objection, two considerations should be taken into view — the situation of the continent when a Constitution was formed, and the impossibility of preserving a perfect sovereignty in the states, after necessary powers were ceded to a

defective as it had been supposed. But after I had entered into a free conversation with those who were best informed of the condition and interest of each state, — after I had compared the intelligence derived from them with the properties that ought to characterize the government of our Union, — I became persuaded that the Confederation was destitute of *every energy* which a constitution of the United States ought to possess.” And after he had, in the most masterly manner, proved its insufficiency, he adds, “But now, sir, permit me to declare that, in my humble judgment, the powers by which alone the blessings of a general government can be accomplished, cannot be interwoven in the Confederation, *without a change of its very essence*; or, in other words, that the Confederation *must be thrown aside*.” Having stated his objections to it, he proceeds thus: “My inference from these facts and principles is, that the new powers must be deposited in a new body, growing out of the consolidation — of the Union, as far as the circumstances of the states would allow.” Thus fully and candidly does this gentleman insist on the absolute necessity of a new constitution of general government, at the very time that he objected to the present form; and concludes his letter with these memorable words, which I most heartily wish may make a deep impression on the mind of every gentleman in the opposition: “I hesitate not to say, that the most fervent prayer of my soul is, the establishment of a firm, energetic government; that the most inveterate curse that can befall us is a dissolution of the Union; and that the *present moment*, if suffered to pass unemployed, can NEVER be recalled. I shall therefore cling to the Union as the rock of our salvation, and urge Virginia to finish the salutary work which she hath begun. And if, after our best efforts for amendments, they cannot be obtained, I scruple not to declare (notwithstanding the advantage the declaration may give to the enemies of my proposal) that I will, as an individual citizen, accept the Constitution.”

I pause, sir, that every gentleman present may have time to indulge those feelings which these excellent expressions must occasion. May that God who has the hearts of all men under his control, inspire every member of this Convention with a similar disposition! Then shall we lay aside every opposite interest, and unite, as a band of brothers, in the ratification of this Constitution of national government

Then, sir, will your terms of conciliation be attended to with gratitude and candor. Your excellency, depressed with bodily infirmity, and exercised with severe pain, has stepped forth at the critical moment, and, from the benevolence of your heart, presented us with a number of proposed amendments, in order, if possible, to quiet the minds of the gentlemen in the opposition, and bring us together in amity and peace — amendments which you, sir, declare you do not think necessary, except for the sole purpose of uniting us in a common and most important cause.

But what has been the consequence of your excellency's conciliatory propositions? Jealousy — jealousy, sir, that there was a snake in the grass, a secret intention to deceive. I shuddered at the ungenerous suggestion, nor will I dwell a moment longer on the distressing idea. Be banished forever the groundless suspicion of him whose name stands foremost in the list of American patriots! Let love and harmony prevail!

The important hour is just arrived when the die will be cast, that will in a great measure determine the fate of this commonwealth, and have a mighty influence on the general interests of the Union; for, from the best information I have been able to collect from gentlemen of observation and of undoubted veracity, there is the greatest reason to fear that the rejection of this Constitution will be followed with anarchy and confusion.

The Convention, I doubt not, will bear with me while I take a general view of the Constitution before us.

From all that has been said on the subject of biennial elections, it is my decided opinion that two years in the general government will not be in proportion to one year in the local governments; because, in the former, the objects of government will be great, numerous, and extensive; in the latter, comparatively small and limited. The general government involves all the states now in the Union — all such as shall in future accede to it — all foreign nations with whom we are now, or hereafter shall be, in alliance — an extensive and growing commerce — war and peace, &c.

It has been said that this is a stride towards septennial elections, or perpetuity in office. I answer, the Constitution itself is to be the rule: that declares that "representatives

shall be chosen every second year by the people of the several states." Elections, then, of representatives must be every second year; nor can they be otherwise, without a direct violation of the Constitution. The men who shall be wicked enough to do this, would not be restrained, had the elections been annual; it being equally easy to violate the Constitution in one case as in the other. Elections, indeed, ought to be so frequent as to make the representatives feel they are dependent on and amenable to the people. The difference, then, between annual and biennial elections is small, and, in either case, will answer the end just mentioned.

The powers that are granted to Congress by this instrument are great and extensive; but, sir, they are defined and limited, and, in my judgment, sufficiently checked; which shall prove before I sit down. These powers have been the subject of long and ingenious debate. But the arguments that have been made use of against delegating these powers to the general government prove too much, being applicable to all delegated power; I mean the possible abuse of it. The very term *government* implies a supreme controlling power somewhere; a power to coerce, whenever coercion shall be necessary; of which necessity government must be the judge. This is admitted; if so, the power may be abused. Every gentleman must confess that we cannot give a power to do good, but it may be abused to do evil. If a merchant commits the care of a ship and cargo to the master, he may dispose of both, and appropriate the money to his own use. If we raise a body of men, and put arms into their hands for our defence, they may turn them against us and destroy us. All these things prove, however, that, in order to guard as much as possible against the abuse of those powers we delegate to government, there ought to be sufficient checks on them; every precaution should be used to secure the liberties of the people on the one hand, and not render government inefficient on the other. I believe, sir, such security is provided in this Constitution: if not, no consideration shall induce me to give my voice in its favor. But the people are secured by the following circumstances:—

1st. All the offices in Congress are elective, not hereditary. The President and senators are to be chosen by interposition of the legislatures of the several states, and are the representatives and guardians of the people, with

honor and interest will lead them, in all human probability, to have good men placed in the general government.

2d. The representatives in Congress are to be chosen, every second year, by the people of the several states. Consequently, it lies with the people themselves to say who shall represent them. It will, then, be their own fault if they do not choose the best men in the commonwealth.

Who are Congress, then ? They are ourselves ; the men of our own choice, in whom we can confide ; whose interest is inseparably connected with our own. Why is it, then, that gentlemen speak of Congress as some foreign body, as a set of men who will seek every opportunity to enslave us ? Such insinuations are repugnant to the spirit of the Constitution.

But a worthy gentleman from Middleborough has told us, that, though they may be good men when chosen, they may become corrupt. They may so ; nor is it in the power of angels or men to prevent it ; but should this be the case, the Constitution has made provisions for such an event. When it happens, we shall know what method to adopt, in order to bring them to punishment. In all governments where offices are elective, there ever has been, and there ever will be, a competition of interests. They who are in office wish to keep in, and they who are out, to get in ; the probable consequences of which will be, that they who are already in place will be attentive to the rights of the people, because they know that they are dependent on them for a future election, which can be secured by good behavior only. Besides, they who are out of office will watch them who are in, with a most critical eye, in order to discover and expose their malconduct, if guilty of any, that so they may step into their places. Every gentleman knows the influence that a desire to obtain a place, or the fear of losing it, hath on mankind. Mr. Borgh tells us, that, towards the close of the seven years for which the representatives are chosen in the British Parliament, they become exceedingly polite to the people. Why ? Because they know there is an approaching election depending. This competition of interest, therefore, between those persons who are in and those who are out of office, will ever form one important check to the abuse of power in our representatives.

3d. Every two years there will be a revolution in the

general government in favor of the people. At the expiration of the first two years, there will be a new choice of representatives; at the expiration of the second two years, there will be a new choice of President and representatives; and at the expiration of the third term, making six years from the commencement of the Congress, there will be a new choice of senators and representatives. We all know, sir, that power thus frequently reverting to the people will prove a security to their liberties, and a most important check to the power of the general government.

4th. Congress can make no laws that will oppress the people, which will not equally involve themselves in the oppression.

What possible motive, then, can Congress have to abuse their power? Can any man suppose that they will be so lost to their own interest as to abuse their power, knowing, at the same time, that they equally involve themselves in the difficulty? It is a most improbable supposition. This would be like a man's cutting off his nose to spite his face. I place this, sir, among the securities of the liberties of my fellow-citizens, and rejoice in it.

5th. Congress guaranty to every state in the Union a republican form of government, and engage to protect them against all foreign and domestic enemies; that is, as it hath been justly observed by the honorable gentleman [Mr. Adams] near me, of known and tried abilities as a politician, each state shall choose such republican form of government as they please, and Congress solemnly engage themselves to protect it from every kind of violence, whether of faction at home or enemies abroad. This is an admirable security of the people at large, as well as of the several governments of the states; consequently the general government cannot swallow up the local governments, as some gentlemen have suggested. Their existence is dependent on each other, and must stand or fall together. Should Congress ever attempt the destruction of the particular legislatures, they would be in the same predicament with Samson, who overthrew the house in which the Philistines were making sport at his expense; them he killed, indeed, but he buried himself in the ruins.

6th. Another check in favor of the people is this — that the Constitution provides for the impeachment, trial, and punishment of every officer in Congress, who shall be guilty

of malconduct. With such a prospect, who will dare to abuse the powers vested in him by the people?

7th. Having thus considered several of the checks to the powers of Congress, which are interwoven with the Constitution, we will now suppose the worst that can take place in consequence of its adoption: I mean, that it shall be found in some of its parts oppressive to the people; still we have this *dernier ressort*—it may be amended. It is not, like the laws of the Medes and Persians, immutable. The fifth article provides for amendments.

It has been said, it will be difficult, after its ratification, to procure any alterations. By no means, sir, for this weighty reason—it is a general government, and, as such, will have a general influence; all states in the Union will feel the difficulty, and, feeling it, will readily concur in adopting the method provided by the Constitution. And having once made the trial, experience will teach us what amendments are necessary.

Viewing the Constitution in this light, I stand ready to give my vote for it, without any amendments at all. Yet, if the amendments proposed by your excellency will tend to conciliation, I readily admit them, not as a condition of acceptance, but as a matter of recommendation only; knowing that blessed are the peace-makers. I am ready, sir, to submit my life, my liberty, my family, my property, and, as far as my vote will go, the interest of my constituents, to this general government.

After all, if this Constitution was as perfect as the sacred volume is, it would not secure the liberties of the people, unless they watch their own liberties. Nothing written on paper will do this. It is therefore necessary that the people should keep a watchful, not an over-jealous, eye on their rulers; and that they should give all due encouragement to our colleges, schools of learning, &c., so that knowledge may be diffused through every part of our country. Ignorance and slavery, knowledge and freedom, are inseparably connected. While Americans remain in their present enlightened condition, and warmly attached to the cause of liberty, they cannot be enslaved. Should the general government become so lost to all sense of honor and the freedom of the people, as to attempt to enslave them, they who are the descendants of a race of men who have dethroned kings,

would make an American Congress tremble, strip them of their public honors, and reduce them to the lowest state of degradation.

Afternoon. — Hon. Mr. TURNER. Mr. President, being advanced in life, and having endeavored, I hope, with a faithful attention, according to my ability, to assist my country in their trying difficulties and dangers for more than twenty years; and as, for three weeks past, my state of health has been such as to render me unable to speak in this assembly, — I trust I shall be heard with some indulgence, while I express a few sentiments at this solemn crisis. I have been averse to the reception of this Constitution, while it was considered merely in its original form; but since the honorable Convention have pleased to agree to the recommendation of certain amendments, I acknowledge my mind is reconciled. But even thus amended, I still see, or think I see, several imperfections in it, and some which give me pain. Indeed, I never expect to see a constitution free from imperfections; and, considering the great diversity of local interests, views, and habits, — considering the unparalleled variety of sentiments among the citizens of the United States, — I despair of obtaining a more perfect constitution than this, at present. And a constitution preferable to the Confederation must be obtained, and obtained soon, or we shall be an undone people. In my judgment, there is a rational probability, a moral certainty, that the proposed amendments will meet the approbation of the several states in the Union. If there is any respect due to the hoary head of Massachusetts, it will undoubtedly have its proper influence in this case. The minds of gentlemen, throughout the nation, must be impressed with such a sense of the necessity of all-important union, especially in our present circumstances, as must strongly operate in favor of a concurrence. The proposed amendments are of such a liberal, such a generous, and such a catholic nature and complexion, — they are so congenial to the soul of every man who is possessed of patriotic regard to the preservation of the just rights and immunities of his country, as well as to the institution of a good and necessary government, — that I think they must, they will, be universally accepted. When, in connection with this confidence, I consider the deplorable state of our navigation and commerce, and various branches of business thereon dependent; the inglorious and

provoking figure we make in the eyes of our European creditors; the degree in which the landed interest is burdened and depreciated; the tendency of depreciating paper, and tender acts, to destroy mutual confidence, faith, and credit, to prevent the circulation of specie, and to overspread the land with an inundation, a chaos of multiform injustice, oppression, and knavery; when I consider what want of efficiency there is in our government, as to obliging people seasonably to pay their dues to the public, instead of spending their money in support of luxury and extravagance, of consequence the inability of government to satisfy the just demands of its creditors, and to do it in season, so as to prevent their suffering amazingly by depreciation; in connection with my anxious desire that my ears may be no longer perstranged, nor my heart pained, with the cries of the injured widow and orphans; when I also consider that state of our finances which daily exposes us to become a prey to the despotic humor even of an impotent invader,—I find myself constrained to say, before this assembly, and before God, that I think it my duty to give my vote in favor of this Constitution, with the proposed amendments; and, unless some further light shall be thrown in my way to influence my opinion, I shall conduct accordingly. I know not whether this Convention will vote a ratification of this Constitution, or not. If they should do it, and have the concurrence of the other states, may that God, who has always, in a remarkable manner, watched over us and our fathers for good, in all difficulties, dangers, and distresses, be pleased to command his almighty blessing upon it, and make it instrumental of restoring justice, honor, safety, support, and salvation, to a sinking land! But I hope it will be considered, by persons of all orders, ranks, and ages, that, without the prevalence of Christian piety and morals, the best republican constitution can never save us from slavery and ruin. If vice is predominant, it is to be feared we shall have rulers whose grand object will be (slyly evading the spirit of the Constitution) to enrich and aggrandize themselves and their connections, to the injury and oppression of the laborious part of the community; while it follows, from the moral constitution of the Deity, that prevalent iniquity must be the ruin of any people. The world of mankind have always, in general, been enslaved and miserable, and always will be, until there is a greater

prevalence of Christian moral principles; nor have I any expectation of this, in any great degree, unless some superior mode of education shall be adopted. It is education which almost entirely forms the character, the freedom or slavery, the happiness or misery, of the world. And if this Constitution shall be adopted, I hope the Continental legislature will have the singular honor, the indelible glory, of making it one of their first acts, in their first session, most earnestly to recommend to the several states in the Union the institution of such means of education as shall be adequate to the divine, patriotic purpose of training up the children and youth at large in that solid learning, and in those pious and moral principles, which are the support, the life and soul, of republican government and liberty, of which a free constitution is the body; for, as the body, without the spirit, is dead, so a free form of government, without the animating principles of piety and virtue, is dead also, being alone. May religion, with sanctity of morals, prevail and increase, that the patriotic civilian and ruler may have the sublime, parental satisfaction of eagerly embracing every opportunity of mitigating the rigors of government, in proportion to that increase of morality which may render the people more capable of being a law to themselves! How much more blessed this than to be employed in fabricating constitutions of a higher tone, in obedience to necessity, arising from an increase of turbulent vice and injustice in society! I believe your excellency's patience will not be further exercised by hearing the sound of my voice on the occasion, when I have said, May the United States of America live before God! May they be enlightened, pious, virtuous, free, and happy, to all generations!

Capt. SOUTHWORTH spoke a short time against the adoption of the Constitution; but the worthy gentleman, from the indisposition of body, not being able to complete his speech, we cannot give it to the public.

Mr. SYMMES. Mr. President: I hope, sir, the Convention will indulge me with a few words, and I promise I will not detain them long. It may be known to your excellency, that I have heretofore had the honor to address the Convention in opposition to a certain paragraph in the Constitution. That fact is the sole occasion of my craving a turn to be heard again.

Sir, it never was my opinion that we ought, entirely, to abandon this Constitution. I thought it had great defects: and I still think it by no means free from blemishes; but I ever expected the worst consequences to follow a total rejection of it. I always intended to urge amendments, and was in hopes that the wisdom of this assembly would devise a method to secure their adoption. Therefore, when your excellency came forward, as well became your high office, in the character of a mediator, a ray of hope shone in upon the gloom that overspread my heart — of hope that we should still be united in the grand decision.

Sir, a mortal hatred, a deadly opposition, can be deserved by no government but the tyranny of hell, and perhaps a few similar forms on earth. A government of that complexion, in the present enlightened age, could never enter the heart of man; and if it could, and impudence enough were found to propose it, — nay, if it should be accepted, — I affirm, sir, that in America it would never operate a moment. I should glory in debating on my grounds for this assertion; but who will dare to question the truth of it?

Mr. President, so ample have been the arguments drawn from our national distress, the weakness of the present Confederation, the danger of instant disunion, and perhaps some other topics not included in these, that a man must be obstinate indeed, to say, at this period, that a new government is needless. One is proposed. Shall we reject it totally, or shall we amend it? Let any man recollect or peruse the debates in this assembly, and I venture to say, he shall not see a moment, if he loves his country, in making his election. He would contemplate the idea of rejection with horror and detestation. But, sir, it has been alleged that the necessary amendments cannot be obtained in the way your excellency has proposed. This matter has been largely debated. I beg a moment to consider it. Our committee, sir, were pretty well agreed to the amendments necessary to be made, and, in their report, it appears that these amendments are equally beneficial to all the citizens of America. There is nothing local in them. Shall we, then, totally reject the Constitution, because we are only morally certain that they will be adopted? Shall we choose certain misery in one way, when we have the best human prospect

of enjoying our most sanguine wishes in another? God forbid!

But, sir, a great deal has been said about the amendments. Here again I refer to the debates. Such has been said to have been the past prevalence of the Northern States in Congress, the sameness of interest in a majority of the states, and their necessary adhesion to each other, that I think there can be no reasonable doubt of the success of any amendments proposed by Massachusetts. Sir, we have, we do, and we *shall*, in a great measure, give birth to all events, and hold the balance among the United States.

The honorable gentleman, my respected friend from Scituate, has so fully entered into the expediency of ratifying the Constitution upon the basis of the report, and so ably stated the unanswerable reasons he finds for giving his sanction to it, notwithstanding his former different opinion, that I may decently waive a task I could not half so well perform.

Upon the whole, Mr. President, approving the amendments, and firmly believing that they will be adopted, I recall my former opposition, such as it was, to this Constitution, and shall — especially as the amendments are a standing instruction to our delegates until they are obtained — give it my unreserved assent.

In so doing, I stand acquitted to my own conscience; I hope and trust I shall to my constituents, and [*laying his hand on his breast*] I know I shall before God.

The time agreed upon for taking the question being arrived, and the same being called for from every quarter, —

JOHN HANCOCK, the PRESIDENT, rose, and addressed the honorable Convention as follows: —

Gentlemen, being now called upon to bring the subject under debate to a decision, by bringing forward the question, I beg your indulgence to close the business with a few words. I am happy that my health has been so far restored, that I am rendered able to meet my fellow-citizens as represented in this Convention. I should have considered it as one of the most distressing misfortunes of my life to be deprived of giving my aid and support to a system which, if amended (as I feel assured it will be) according to your proposals, cannot fail to give the people of the United States a greater

degree of political freedom, and eventually as much national dignity, as falls to the lot of any nation on earth. I have not, since I had the honor to be in this place, said much on the important subject before us. All the ideas appertaining to the system, as well those which are against as for it, have been debated upon with so much learning and ability, that the subject is quite exhausted.

But you will permit me, gentlemen, to close the whole with one or two general observations. This I request, not expecting to throw any new light on the subject, but because it may possibly prevent uneasiness and discordance from taking place amongst us and amongst our constituents.

That a general system of government is indispensably necessary to save our country from ruin, is agreed upon all sides. That the one now to be decided upon has its defects, all agree; but when we consider the variety of interests, and the different habits of the men it is intended for, it would be very singular to have an entire union of sentiment respecting it. Were the people of the United States to delegate the powers proposed to be given, to men who were not dependent on them frequently for elections — to men whose interest, either from rank or title, would differ from that of their fellow-citizens in common — the task of delegating authority would be vastly more difficult; but, as the matter now stands, the powers reserved by the people render them secure, and, until they themselves become corrupt, they will always have upright and able rulers. I give my assent to the Constitution, in full confidence that the amendments proposed will soon become a part of the system. These amendments being in no wise local, but calculated to give security and ease alike to all the states, I think that all will agree to them.

Suffer me to add, that, let the question be decided as it may, there can be no triumph on the one side or chagrin on the other. Should there be a great division, every good man, every man who loves his country, will be so far from exhibiting extraordinary marks of joy, that he will sincerely lament the want of unanimity, and strenuously endeavor to cultivate a spirit of conciliation, both in Convention and at home. The people of this commonwealth are a people of great light — of great intelligence in public business. They know that we have none of us an interest separate from theirs;

that it must be our happiness to conduce to theirs; and that we must all rise or fall together. They will never, therefore, forsake the first principle of society—that of being governed by the voice of the majority; and should it be that the proposed form of government should be rejected, they will zealously attempt another. Should it, by the vote now to be taken, be ratified, they will quietly acquiesce, and, where they see a want of perfection in it, endeavor, in a constitutional way, to have it amended.

The question now before you is such as no nation on earth, without the limits of America, has ever had the privilege of deciding upon. As the Supreme Ruler of the universe has seen fit to bestow upon us this glorious opportunity, let us decide upon it; appealing to him for the rectitude of our intentions, and in humble confidence that he will yet continue to bless and save our country.

The question being put, whether this Convention will accept of the report of the committee, as follows,—

COMMONWEALTH OF MASSACHUSETTS.

In Convention of the Delegates of the People of the Commonwealth of Massachusetts, 1789.

The Convention, having impartially discussed and fully considered the Constitution for the United States of America, reported to Congress by the Convention of delegates from the United States of America, and submitted to us by a resolution of the General Court of the said commonwealth, passed the twenty-fifth day of October last past; and acknowledging, with grateful hearts, the goodness of the Supreme Ruler of the universe in affording the people of the United States, in the course of his providence, an opportunity, deliberately and peaceably, without fraud or surprise, of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and their posterity, DO, in the name and in behalf of the people of the commonwealth of Massachusetts, assent to and ratify the said Constitution for the United States of America.

And, as it is the opinion of this Convention, that certain amendments and alterations in the said Constitution would remove the fears and quiet the apprehensions of many of the people of the commonwealth, and more effectually guard against an undue administration of the federal government, the Convention do therefore recommend that the following alterations and provisions be introduced into the said institution :—

First. That it be explicitly declared, that all powers not expressly granted by the aforesaid Constitution are reserved to the several states, and by them exercised.

Secondly. That there shall be one representative to every thirty thousand persons, according to the census mentioned in the Constitution, until the whole number of representatives amounts to two hundred.

Thirdly. That Congress do not exercise the powers vested in them by the 4th section of the 1st article, but in cases where a state shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeable to the Constitution.

Fourthly. That Congress do not lay direct taxes, but when the moneys arising from the impost and excise are insufficient for the public exigencies, then, until Congress shall have first made a requisition upon the states, they shall assess, levy, and pay their respective proportion of such requisitions, agreeably to the census fixed in the said Constitution, in such way and manner as the legislatures of the states shall think best, and, in such case, if any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed in such requisitions.

Fifthly. That Congress erect no company with exclusive advantages in commerce.

Sixthly. That no person shall be tried for any crime, by which he may incur an infamous punishment, or loss of life, until he be first indicted by grand jury, except in such cases as may arise in the government and protection of the land and naval forces.

Seventhly. The Supreme Judicial Federal Court shall have no jurisdiction of causes between citizens of different states, unless the matter in dispute, whether it concern the realty or personalty, be of the value of five thousand dollars at the least; nor shall the federal judicial powers extend to any action between citizens of different states, where the matter in dispute, whether it concern the realty or personalty, is not of the value of five hundred dollars at the least.

Eighthly. In civil actions between citizens of different states, every case of fact, arising in actions at common law, shall be tried by a jury, if the parties, or either of them, request it.

Ninthly. Congress shall at no time consent that any person holding an office of trust or profit, under the United States, shall accept of a title of nobility, or any other title or office, from any king, prince, or foreign

And the Convention do, in the name and in the behalf of the people of this commonwealth, enjoin it upon their representatives in Congress, at all times, until the alterations and provisions aforesaid have been considered, agreeably to the 5th article of the said Constitution, to exert all their influence, and use all reasonable and legal methods, to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article.

And, that the United States, in Congress assembled, may have due notice of the assent and ratification of the said Constitution by this Convention, it is

Resolved, That the assent and ratification aforesaid be engrossed on parchment, together with the recommendation and injunction aforesaid, and with this resolution; and that his excellency, JOHN HANCOCK, President, and the Hon. WILLIAM CUSHING, Esq., Vice-President of this Convention, transmit the same, countersigned by the Secretary of the Convention, under their hands and seals, to the United States in Congress assembled.

The question was determined by yeas and nays, as follows:—

COUNTY OF SUFFOLK.			
<i>Boston</i> —His Ex. John Hancock,	Yea.	<i>Wrentham</i> —Mr. Thomas Man,	Yea.
Hon. James Bowdoin,	Yea.	Mr. Nathan Comstock,	Nay
Hon. Samuel Adams,	Yea.	<i>Walpole</i> —Mr. George Payson,	Yea.
Hon. William Phillips,	Yea.	<i>Sharon</i> —Mr. Benjamin Randall,	Nay.
Hon. Caleb Davis,	Yea.	<i>Franklin</i> —Hon. J. Fisher,	Yea.
Charles Jarvis, Esq.,	Yea.	<i>Medway</i> —M. Richardson, Jun.,	Nay.
John Coffin Jones, Esq.,	Yea.	<i>Bellingham</i> —Rev. Noah Alden,	Nay.
John Winthrop, Esq.,	Yea.	<i>Chelsea</i> —Rev. Phillips Payson,	Yea.
Thomas Dawes, Jun.,	Yea.	<i>Foxboro'</i> —Mr. Ebenezer Warren,	Yea.
Rev. Samuel Stillman,	Yea.	<i>Hull</i> —Mr. Thomas Jones,	Yea.
Thomas Russell, Esq.,	Yea.	Yeas, 34. Nays, 5.	
Christopher Gore, Esq.,	Yea.	COUNTY OF ESSEX.	
<i>Roxbury</i> —Hon. William Heath,	Yea.	<i>Salem</i> —Richard Manning, Esq.,	Yea.
Hon. Increase Sumner,	Yea.	Edward Pulling, Esq.,	Yea.
<i>Dorchester</i> —James Bowdoin, Jun.,	Yea.	Mr. William Gray, Jun.,	Yea.
Ebenezer Wales, Esq.,	Yea.	Mr. Francis Cabot,	Yea.
<i>Milton</i> —Rev. Nathaniel Robbins,	Yea.	<i>Danvers</i> —Hon. Is. Hutchinson,	Nay.
<i>Weymouth</i> —Hon. Cotton Tufts,	Yea.	<i>Newbury</i> —Hon. Tristram Dalton,	Yea.
<i>Hingham</i> —Hon. Benj. Lincoln,	Yea.	Enos Sawyer, Esq.,	Yea.
Rev. Daniel Shute,	Yea.	E. March, Esq.,	Yea.
<i>Braintree</i> —Hon. Richard Cranch,	Yea.	<i>Newburyport</i> —Hon. Rufus King,	Yea.
Rev. Anthony Wibird,	Yea.	Hon. Benjamin Greenleaf,	Yea.
<i>Brookline</i> —Rev. Joseph Jackson,	Yea.	Theophilus Parsons, Esq.,	Yea.
<i>Dedham</i> —Rev. Thomas Thacher,	Yea.	Hon. Jonathan Titcomb,	Yea.
Fisher Ames, Esq.,	Yea.	<i>Beverly</i> —Hon. G. Cabot,	Yea.
<i>Needham</i> —Col. William M ^r Intosh,	Yea.	Mr. Joseph Wood,	Yea.
<i>Medfield</i> —John Baxter, Jun.,	Yea.	Capt. Israel Thorndike,	Yea.
<i>Stoughton</i> —Hon. Elijah Dunbar,	Yea.	<i>Ipswich</i> —Hon. Michael Farley,	Yea.
Capt. Jedediah Southworth,	Nay.	J. Choate, Esq.,	Yea.

Daniel Noyes, Esq.,	Yea.	Bedford—Capt. John Webber,	Nay.
Col. Jonathan Cogswell,	Yea.	Holliston—Capt. St. Chamberlain,	Nay.
<i>Marblehead</i> —Isaac Mansfield,	Yea.	Acton and Carlisle—Mr. A. Parlin,	Nay.
J. Glover, Esq.,	Yea.	Dunstable—Hon. J. Pitts,	Yea.
Hon. Azor Orne,	Yea.	Lincoln—Hon. E. Brooks,	Yea.
John Glover, Esq.,	Yea.	Wilmington—Capt. J. Harnden,	Nay.
Gloucester—Daniel Rodgers, Esq.,	Yea.	Tewksbury—Mr. Newman Scarlet,	Nay.
John Low, Esq.,	Yea.	Littleton—Mr. Samuel Reed,	Nay.
Capt. W. Pearson,	Yea.	Ashby—Mr. Benjamin Adams,	Nay.
Lynn and Lynnfield—J. Carnes,	Yea.	Natick—Maj. Hezekiah Broad,	Nay.
Capt. John Burnham,	Yea.	Stoneham—Capt. Jonathan Green,	Nay.
Andover—Peter Osgood, Jun.,	Nay.	East Sudbury—Mr. Phi. Gleason,	Nay.
Dr. Thomas Kittridge,	Nay.	Yeas, 17. Nays, 25.	
William Symmes, Jun.,	Yea.		
Roxley—Capt. Thomas Mighill,	Nay.		
Haverhill—Bailey Bartlett, Esq.,	Yea.		
Capt. Nathaniel Marsh,	Nay.		
Topsfield—Mr. Israel Clark,	Yea.		
Salisbury—Dr. Samuel Nyre,	Yea.		
Mr. Enoch Jackman,	Yea.		
Amesbury—Capt. Benj. Lurvey,	Yea.		
Mr. Willis Patten,	Yea.		
Boxford—Hon. Aaron Wood,	Nay.		
Bradford—Daniel Thruston, Esq.,	Yea.		
Methuen—Capt. E. Carlton,	Nay.		
Wenham—Mr. Jacob Herrick,	Yea.		
Manchester—Mr. Simeon Miller,	Yea.		
Yeas, 38. Nays, 6.			

COUNTY OF MIDDLESEX.

Cambridge—Hon. Francis Dana,	Yea.	County of Hampshire.	
Stephen Dana, Esq.,	Yea.	Springfield—Wm. Pynchon, Esq.,	Yea.
Charlestown—Hon. N. Gorham,	Yea.	West Springfield—Col. Benj. Ely,	Nay.
Watertown—Dr. Marshal Spring,	Nay.	Capt. John Williston,	Nay.
Woburn—Capt. Timothy Winn,	Nay.	Wilbraham—Capt. Phin. Stebbins,	Nay.
Concord—Hon. Joseph Mosmer,	Yea.	Northampton and Easthampton—	
Newtown—Hon. A. Fuller,	Yea.	Hon. Caleb Strong,	Yea.
Reading—Mr. William Flint,	Nay.	Benjamin Sheldon,	Yea.
Mr. Peter Emerson,	Nay.	Southampton—Capt. L. Pomeroy,	Yea.
Marlborough—Mr. Jonas Morse,	Nay.	Hadley—Brig. Gen. Elisha Porter,	Yea.
Maj. Benjamin Sawin,	Nay.	South Hadley—Hon. N. Goodman,	Yea.
Billerica—Wm. Thompson, Esq.,	Nay.	Amherst—Mr. Daniel Cooly,	Nay.
Framingham—Capt. L. Buckminster,	Yea.	Granby—Mr. Benjamin Eastman,	Nay.
Lexington—Benj. Browne, Esq.,	Yea.	Hatfield—Hon. J. Hastings,	Yea.
Chelmsford—Maj. John Minot,	Nay.	Whately—Mr. Josiah Allis,	Nay.
Sherburne—Daniel Whitney, Esq.,	Yea.	Williamsburg—Mr. W. Bodman,	Nay.
Sudbury—Capt. Asahel Wheeler,	Yea.	Westfield—John Ingersoll, Esq.,	Yea.
Milken—Capt. Benjamin Blaney,	Yea.	Deerfield—Mr. Samuel Field,	Nay.
Weston—Capt. Abraham Bigelow,	Yea.	Greenfield—Mr. Moses Bascum,	Nay.
Medford—Maj. Gen. John Brooks,	Yea.	Shelburne—Mr. Robert Wilson,	Nay.
Hopkinton—Capt. Gilbert Dench,	Yea.	Conway—Capt. Consider Arms,	Nay.
Westford—Mr. Jonathan Keep,	Nay.	Mr. Malachi Maynard,	Nay.
Stow—Dr. Charles Whitman,	Yea.	Sunderland—Capt. Z. Crocker,	Nay.
Groton—Dr. Benjamin Morse,	Nay.	Montague—Mr. M. Severance,	Nay.
Joseph Sheple, Esq.,	Nay.	Northfield—Mr. Eben James,	Yea.
Shirley—Mr. Obadiah Sawtell,	Nay.	Brimfield—Abner Morgan, Esq.,	Yea.
Pepperell—Mr. Daniel Fisk,	Nay.	South Brimfield—Capt. A. Fisk,	Nay.
Waltham—Leonard Williams, Esq.,	Yea.	Monson—Mr. Phineas Merrick,	Nay.
Townsend—Capt. Daniel Adams,	Nay.	Pelham—Mr. Adam Clark,	Nay.
Dracut—Hon. Joseph B. Varnum,	Yea.	Greenwich—Capt. N. Whitcomb,	Nay.
		Blandford—Mr. Timothy Blair,	Nay.
		Palmer—Mr. Aaron Merrick,	Nay.
		Granville—Mr. John Hamilton,	Nay.
		Mr. Clark Cooley,	Nay.
		New Salem—Mr. J. Chamberlin,	Nay.
		Belchertown—Mr. Justus Dwight,	Nay.
		Coleraine—Mr. Samuel Eddy,	Nay.
		Ware—Mr. Isaac Pepper,	Nay.
		Warwick and Orange—	
		Capt. John Goldsborough,	Nay.
		Chester—Capt. David Shepard,	Yea.
		Charlemon—Mr. Jesse Reed,	Yea.
		Ashfield—Mr. Ephraim Williams,	Nay.
		Worthington—Nahum Eager, Esq.,	Yea.
		Shutesbury—Mr. Asa Powers,	Nay.
		Chesterfield—Col. Benj. Bonnev,	Yea.

Southwick—Capt. Silas Fowler, Nay.
Northwick—Maj. T. J. Doglass, Yea.
Ludlow—Mr. John Jennings, Nay.
Leverett—Mr. Jonathan Hubbard, Nay.
West Hampton—Mr. A. Fisher, Yea.
Cunningham and Plainfield—
 Mr. Edmund Lazell, Yea.
Buckland—Capt. T. Maxwell, Yea.
Long Meadows—Mr. E. Colton, Yea.
 Yeas, 33. Nays, 19.

COUNTY OF PLYMOUTH.

Plymouth—Joshua Thomas, Esq., Yea.
 Thomas Davis, Yea.
 John Davis, Yea.
Sacuate—Hon. William Cushing, Yea.
 Hon. Nathan Cushing, Yea.
 Hon. Charles Turner, Esq., Yea.
Marshfield—Rev. William Shaw, Yea.
Bridgewater—D. Howard, Esq., Yea.
 Mr. Hezekiah Hooper, Yea.
 Capt. Elisha Mitchell, Yea.
 Mr. Daniel Howard, Jun., Yea.
Middleboro'—Rev. Isaac Backus, Yea.
 Mr. Benjamin Thomas, Nay.
 Isaac Thompson, Esq., Yea.
 Mr. Isaac Soule, Nay.
Duxbury—Hon. G. Partridge, Yea.
Rochester—Mr. N. Hammond, Nay.
 Mr. Abraham Holmes, Nay.
Plympton—Capt. F. Shurtliff, Nay.
 Mr. Elisha Bisbee, Jun., Nay.
Pembroke—Capt. John Turner, Yea.
 Mr. Josiah Smith, Yea.
Kingston—W. Sever, Jun., Esq., Yea.
Hanover—Hon. Joseph Cushing, Yea.
Abington—Rev. Samuel Niles, Yea.
Halifax—Mr. F. Waterman, Yea.
Wareham—Col. Israel Fearing, Yea.
 Yeas, 22. Nays, 6.

COUNTY OF BARNSTABLE.

Barnstable—Shear. Browne, Esq., Yea.
Sandwich—Dr. Thomas Smith, Nay.
 Mr. Thomas Nye, Nay.
Yarmouth—D. Thatcher, Esq., Yea.
 Capt. Jonathan Howes, Yea.
Harwich—Hon. Solomon Freeman, Yea.
 Capt. Kimball Clark, Yea.
Wellfleet—Rev. Levi Whitman, Yea.
Falmouth—Capt. Joseph Palmer, Yea.
 Yeas, 7. Nays, 2.

COUNTY OF BRISTOL.

Fauntlon—James Williams, Esq., Yea.
 Col. Nathaniel Leonard, Nay.
 Mr. Aaron Pratt, Nay.
Rehoboth—Capt. Phan. Bishop, Nay.
 Maj. Frederick Brown, Nay.
 William Windsor, Esq., Nay.

Swansey—Mr. Christopher Mason, Nay.
 Mr. David Brown, Nay.
Dartmouth—Hon. Hol'r Slocum, Nay.
 Mr. Melatiah Hathaway, Nay.
Norton—Hon. Abraham White, Nay.
Attleboro'—Hon. Elisha May, Yea.
 Capt. Moses Wilmarth, Yea.
Dighton—Col. Sylvester Richmond, Yea.
 Hon. William Baylies, Yea.
Freetown—Hon. Thomas Durfee, Yea.
 Israel Washburn, Esq., Yea.
Easton—Capt. Eben Tisdell, Nay.
Mansfield—Capt. John Pratt, Nay.
New Bedford—Hon. W. Spooner, Yea.
 Rev. Samuel West, Yea.
Westport—Mr. William Almy, Yea.
 Yeas, 10. Nays, 12.

COUNTY OF YORK.

York—Capt. Esaias Preble, Nay.
 Nathaniel Barrell, Esq., Yea.
Kittery—Mr. Mark Adams, Nay.
 Mr. James Neal, Nay.
Wells—Rev. Mr. Hemmenway, Yea.
 Hon. Nathaniel Wells, Yea.
Berwick—Dr. Nathaniel Low, Nay.
 Mr. Richard F. Cutts, Nay.
 Mr. Elijah Hays, Nay.
Pepperelboro'—T. Cutts, Esq., Yea.
Lebanon—Mr. T. M. Wentworth, Nay.
Sanford—Maj. Samuel Nason, Nay.
Buxton—Jacob Bradbury, Esq., Yea.
Fryeburg—Mr. Moses Ames, Nay.
Coxhall—Capt. John Low, Yea.
Shapleigh—Mr. Jeremiah Emery, Nay.
Waterboro'—Rev. Pel. Tingley, Nay.
 Yeas, 6. Nays, 11.

COUNTY OF DUKES.

Edgartown—Mr. Wm Mayhew, Yea.
Tisbury—Mr. C. Dunham, Yea.
 Yeas, 2.

COUNTY OF WORCESTER.

Worcester—Mr. David Bigelow, Nay.
Lancaster—Hon. John Sprague, Yea.
Mendon—Ed. Thompson, Esq., Nay.
Brookfield—Mr. Daniel Forbes, Nay.
 Mr. N. Jenks, Nay.
Oxford—Capt. Jeremiah Learned, Nay.
Charlton—Mr. Caleb Curtiss, Nay.
 Mr. Ezra M^rIntier, Nay.
Sutton—Mr. David Harwood, Nay.
 Hon. Amos Singletary, Nay.
Leicester—Col. Samuel Denny, Nay.
Spencer—Mr. James Hathun, Nay.
Rutland—Mr. Asaph Sherman, Nay.
Paxton—Mr. Abraham Smith, Nay.
Oakham—Capt. Jonathan Bullard, Nay.
Barre—Capt. John Black, Nay.

iston—Capt. J. Woods, Nay.
raintree—Capt. B. Joslyn, Nay.
ro'—Capt. Seth Newton, Yea.
o'—Capt. S. Maynard, Nay.
ro'—Mr. Art. Brigham, Nay.
ury—Capt. I. Harrington, Nay.
urg—Capt. John Fuller, Nay.
rg—Mr. Daniel Putman, Nay.
re—Dr. Samuel Willard, Nay.
d—Joshua Whitney, Esq., Nay.
 —Mr. Jonathan Day, Nay.
 —Hon. Samuel Baker, Yea.
 —Capt. T. M. Baker, Nay.
lge—Capt. Timothy Parker, Nay.
ster—Maj. D. Wilder, Yea.
ick—Maj. M. Kinsley, Nay.
 —Rev. Joseph Davi, Nay.
 —Mr. Mat. Patrick, Yea.
ss—Hon. John Taylor, Nay.
 —Dr. Joseph Wood, Nay.
ss—Jonathan Grout, Esq., Nay.
 Capt. Samuel Peckham, Nay.
on—John Frye, Esq., Nay.
uder—Mr. Stephen Holden, Nay.
ton—Capt. J. Fletcher, Nay.
on—Mr. Timothy Fuller, Nay.
ham—Mr. Jacob Willard, Nay.
ndon—Mr. Moses Hale, Nay.
ridge—Capt. J. Wood, Nay.
 —Mr. Joseph Stone, Nay.
 —Mr. Josiah Goddard, Yea.
 —Mr. David Stearns, Nay.
 —Mr. Ephraim Wilder, Yea.
n—Mr. Jonas Temple, Nay.
 Yeas, 8. Nays, 43.

COUNTY OF CUMBERLAND.

th—Daniel Isley, Esq., Nay.
 John K. Smith, Esq., Yea.
d—Mr. John Fox, Yea.
 Capt. Joseph M'Lellen, Yea.
Yarmouth—D. Mitchell, Yea.
 Samuel Merrill, Esq., Yea.
o'—W. Thompson, Esq., Yea.
rick—Capt. John Dunlap, Yea.
ell—Capt. Isaac Snow, Yea.
Elizabeth—Mr. Joshua Dyer, Yea.
 —Mr. S. Longfellow, Jun., Nay.

New Gloucester—Mr. Widgery, Nay.
Gray—Rev. Samuel Perley, Yea.
 Yeas, 10. Nays, 3.

COUNTY OF LINCOLN.

Pownalboro'—Thomas Rice, Esq., Yea.
 Mr. David Sylvester, Yea.
Georgetown—Mr. N. Wyman, Yea.
Newcastle—Mr. David Murray, Nay.
Woolwich—Mr. David Gilmore, Yea.
Topsam—Hon. S. Thompson, Nay.
Winslow—Mr. Jonah Crosby, Nay.
Bowdoinham—Mr. Zach. Beal, Nay.
Boothbay—William M'Cobb, Esq., Yea.
Bristol—William Jones, Esq., Nay.
Vassalboro'—Capt. Samuel Grant, Yea.
Edgecomb—Moses Davis, Esq., Yea.
Hallowell—Capt. James Carr, Nay.
Thomaston—David Fayles, Esq., Yea.
Bath—Dummer Sewall, Esq., Yea.
Winthrop—Mr. Joshua Bean, Nay.
 Yeas, 9. Nays, 7.

COUNTY OF BERKSHIRE.

Sheffield and Mount Washington—
 John Ashley, Jun., Esq., Yea.
Great Barrington—Hon. E. Dwight, Yea.
Stockbridge—Hon. T. Sedgwick, Yea.
Pittsfield—Mr. Val. Rathburn, Nay.
Richmond—Mr. Comstock Betts, Nay.
Lenox—Mr. Lemuel Collins, Nay.
Lanesboro'—Hon. Jona. Smith, Nay.
Williamstown—Hon. T. J. Skinner, Nay.
Adams—Capt. J. Pleroe, Nay.
Egremont—Ephraim Fitch, Esq., Nay.
Becket—Mr. Elisha Carpenter, Yea.
West Stockbridge—Maj. T. Lusk, Nay.
Alford—Mr. John Hulbert, Nay.
New Marlborough—D. Taylor, Yea.
Tyringham—Capt. E. Herrick, Nay.
Loudon—Mr. Joshua Lawton, Nay.
Windsor—Mr. Timothy Mason, Nay.
Partridgefield—E. Peirce, Esq., Nay.
Hancock—Mr. David Vaughan, Nay.
Lee—Capt. Jesse Bradley, Nay.
Washington—Mr. Zenas Noble, Nay.
Sandisfield—Mr. J. Picket, Jun., Nay.
 Yeas, 6. Nays, 16.

TOTAL.—Yeas, 187. Nays, 168.

the motion for ratifying being declared in the affirmative by a majority of nineteen, the
 n. Mr. WHITE rose, and said that, notwithstanding
 d opposed the adoption of the Constitution, upon the
 hat it would endanger the liberties of his country, yet,
 majority had seen fit to adopt it, he should use his

utmost exertions to induce his constituents to live in peace under and cheerfully submit to it.

He was followed by Mr. WIDGERY, who said, that he should return to his constituents, and inform them that he had opposed the adoption of this Constitution ; but that he had been overruled, and that it had been carried by a majority of wise and understanding men ; that he should endeavor to sow the seeds of union and peace among the people he represented ; and that he hoped, and believed, that no person would wish for, or suggest, the measure of a PROTEST ; for, said he, we must consider that this body is as full a representation of the people as can be convened. — After expressing his thanks for the civility which the inhabitants of this town have shown to the Convention, and declaring, as his opinion, that they had not in the least influenced the decision, he concluded by saying, that he should support, as much as in him lay, the Constitution, and that he believed, as this state had adopted it, that not only nine, but the whole thirteen, would come into the measure.

Mr. WHITNEY said that, though he had been opposed to the Constitution, he should support it as much as if he had voted for it.

Mr. COOLEY (Amherst) said, that he endeavored to govern himself by the principles of reason ; that he was directed to vote against the adoption of the Constitution, and that, in so doing, he had not only complied with his directions, but had acted according to the dictates of his own conscience ; and that, as it had been agreed to by a majority, he should endeavor to convince his constituents of the propriety of its adoption.

Dr. TAYLOR also said, he had uniformly opposed the Constitution ; that he found himself fairly beaten, and expressed his determination to go home and endeavor to infuse a spirit of harmony and love among the people.

Other gentlemen expressed their inclination to speak ; but, it growing late, the Convention adjourned to the next morning.

THURSDAY, *February 7, 1788.* — The Convention met, when Major NASON, in a short address, intimated his determination to support the Constitution, and to exert himself to influence his constituents to do the same.

Mr. RANDAL said, he had been uniformly opposed to

the Constitution. He had, he said, fought like a good soldier; but, as he was beaten, he should sit down contented, hoping the minority may be disappointed in their fears, and that the majority may reap the full fruition of the blessings they anticipate. In the hope that the amendments recommended by his excellency, the president, will take place, I shall, says he, go home and endeavor to satisfy those that have honored me by their choice, so that we may all live in peace.

Major SWAIN declared, that the Constitution had had a fair trial, and that there had not, to his knowledge, been any undue influence exercised to obtain the vote in its favor; that many doubts which lay on his mind had been removed; and that, although he was in the minority, he should support the Constitution as cheerfully and as heartily as though he had voted on the other side of the question.

The Convention then passed the pay-roll, amounting to £4499 2 s. ; and, after unanimously passing votes of thanks to his excellency, the president, the honorable the vice-president, and the reverend clergymen of the town of Boston, who officiated as chaplains, for their services, it was *voted*, That, when the business of the Convention shall be completed, the members will proceed to the state-house to proclaim the ratification, and to take an affectionate leave of each other. An invitation from a number of the inhabitants of Boston, requesting the members of the Convention to take refreshment at the senate-chamber, when the ratification of the Constitution should be declared, was read, and thereon *voted*, That the thanks of the Convention be given to the inhabitants of Boston for their polite invitation, and that the Convention will attend, as requested.

The business being finished, the Convention proceeded to the state-house, when the ratification was proclaimed by Joseph Henderson, Esq., high sheriff of the county of Suffolk; after which, the Convention was dissolved

F R A G M E N T
OF THE
D E B A T E S
IN
THE CONVENTION
OF THE
S T A T E O F C O N N E C T I C U T ,
ON THE
ADOPTION OF THE FEDERAL CONSTITUTION.

Collected from contemporary publications, since the first edition of this work.

IN CONVENTION, HARTFORD, *January 4, 1788.*

*SPEECH of OLIVER ELSWORTH, on opening the
Debates.*

OLIVER ELSWORTH. Mr. President, it is observable that there is no preface to the proposed Constitution ; but it evidently presupposes two things : one is, the necessity of a federal government ; the other is, the inefficacy of the old Articles of Confederation. A union is necessary for the purposes of a national defence. United, we are strong ; divided, we are weak. It is easy for hostile nations to sweep off a number of separate states, one after another. Witness the states in the neighborhood of ancient Rome. They were successively subdued by that ambitious city, which they might have conquered with the utmost ease, if they had been united. Witness the Canaanitish nations, whose divided situation rendered them an easy prey. Witness England, which, when divided into separate states, was twice conquered by an inferior force. Thus it always happens to small states, and to great ones, if divided. Or if, to avoid this, they connect themselves with some powerful state, their

situation is not much better. This shows us the necessity of combining our whole force, and, as to national purposes, becoming one state.

A *union*, sir, is likewise necessary, considered with relation to economy. Small states have enemies, as well as great ones. They must provide for their defence. The expense of it, which would be moderate for a large kingdom, would be intolerable to a petty state. The Dutch are wealthy; but they are one of the smallest of the European nations, and their taxes are higher than in any other country of Europe. Their taxes amount to forty shillings per head, when those of England do not exceed half that sum.

We must unite, in order to preserve peace among ourselves. If we be divided, what is to prevent wars from breaking out among the states? States, as well as individuals, are subject to ambition, to avarice, to those jarring passions which disturb the peace of society. What is to check these? If there be a parental hand over the whole, this, and nothing else, can restrain the unruly conduct of the members.

Union is necessary to preserve commutative justice between the states. If divided, what is to prevent the large states from oppressing the small? What is to defend us from the ambition and rapacity of New York, when she has spread over that vast territory which she claims and holds? Do we not already see in her the seeds of an overbearing ambition? On our other side there is a large and powerful state. Have we not already begun to be tributaries? If we do not improve the present critical time, — if we do not unite, — shall we not be like Issachar of old, a strong ass crouching down between two burdens? New Jersey and Delaware have seen this, and have adopted the Constitution unanimously.

A more energetic system is necessary. The present is merely advisory. It has no coercive power. Without this, government is ineffectual, or rather is no government at all. But it is said, "Such a power is not necessary. States will not do wrong. They need only to be told their duty, and they will do it." I ask, sir, What warrant is there for this assertion? Do not states do wrong? Whence come wars? One of two hostile nations must be in the wrong. But it is said, 'Among sister states, this can never be presumed.'

But do we not know that, when friends become enemies, their enmity is the most virulent? The seventeen provinces of the Netherlands were once confederated: they fought under the same banner. Antwerp, hard pressed by Philip, applied to the other states for relief. Holland, a rival in trade, opposed and prevented the needy succors. Antwerp was made a sacrifice. I wish I could say there were no seeds of similar injustice springing up among us. Is there not in one of our states injustice too barefaced for Eastern despotism? That state is small: it does little hurt to any but itself. But it has a spirit which would make a Tophet of the universe. But some will say, "We formerly did well without any union." I answer, Our situation is materially changed. While Great Britain held her authority, she awed us. She appointed governors and councils for the American provinces. She had a negative upon our laws. But now, our circumstances are so altered, that there is no arguing what we shall be, from what we have been.

It is said, that other confederacies have not had the principle of coercion. Is this so? Let us attend to those confederacies which have resembled our own. Some time before Alexander, the Grecian states confederated together. The Amphictyonic council, consisting of deputies from these states, met at Delphos, and had authority to regulate the general interests of Greece. This council did enforce its decrees by coercion. The Bœotians once infringed upon a decree of the Amphictyons. A mulct was laid upon them. They refused to pay it. Upon that, their whole territory was confiscated. They were then glad to compound the matter. After the death of Alexander, the Achæan league was formed. The decrees of this confederacy were enforced by dint of arms. The Ætolian league was formed by some other Grecian cities, in opposition to the Achæan; and there was no peace between them until they were conquered and reduced to a Roman province. They were then obliged to sit down in peace under the same yoke of despotism.

How is it with respect to the principle of coercion in the Germanic body? In Germany there are about three hundred principalities and republics. Deputies from these meet annually in the general diet, to make regulations for the empire. But the execution of these is not left voluntarily with the members. The empire is divided into ten circles, over

each of which a superintendent is appointed, with the rank of a major-general. It is his duty to execute the decrees of the empire with a military force.

The confederation of the Swiss cantons has been considered as an example. But their circumstances are far different from ours. They are small republics, about twenty miles square, situated among the Alps, and inaccessible to hostile attacks. They have nothing to tempt an invasion. Till lately, they had neither commerce nor manufactures. They were merely a set of herdsmen. Their inaccessibility has availed them. Four hundred of those mountaineers defeated 15,000 Austrians, who were marching to subdue them. They spend the ardor of youth in foreign service: they return old, and disposed for tranquillity. Between some of the cantons and France, there has long subsisted a defensive treaty. By this treaty, France is to be a mediator to settle differences between the cantons. If any one be obstinate, France is to compel a submission to reasonable terms.

The Dutch republic is an example that merits attention. The form of their constitution, as it is on paper, admits not of coercion. But necessity has introduced it in practice. This coercive power is the influence of the stadtholder — an officer originally unknown to their constitution. But they have been necessitated to appoint him, in order to set their unwieldy machine of government in motion. He is commander-in-chief of their navy, and of their army, consisting of forty or fifty regiments. He appoints the officers of the land and naval forces. He presides in the States-General, and in the states of every province, and, by means of this, he has a great opportunity to influence the elections and decisions. The province of Holland has ever been opposed to the appointment of a stadtholder; because, by its wealth and power, being equal to all the other provinces, it possesses the weight and influence of the stadtholder, when that office is vacant. Without such an influence, their machine of government would no more move, than a ship without wind, or a clock without weights.

But to come nearer home. Mr. President, have we not seen and felt the necessity of such a coercive power? What was the consequence of the want of it during the late war, particularly towards the close? A few states bore the burden of the war. While we and one or two more of the

ates were paying eighty or a hundred dollars per man to recruit the Continental army, the regiments of some states could scarcely men enough to wait on their officers. Since the close of the war, some of the states have done nothing towards complying with the requisitions of Congress. Others, who did something at first, seeing that they were left to bear the whole burden, have become equally remiss. What is the consequence? To what shifts have we been driven? To the wretched expedient of negotiating new loans in Europe, to pay the interest of the foreign debt. And what is still worse, we have even been obliged to apply the new loans to the support of our own civil government at home.

Another ill consequence of this want of energy is, that treaties are not performed. The treaty of peace with Great Britain was a very favorable one for us. But it did not happen perfectly to please some of the states, and they would not comply with it. The consequence is, Britain charges us with the breach, and refuses to deliver up the forts on our northern quarter.

Our being tributaries to our sister states is in consequence the want of a federal system. The state of New York raises 60 or £80,000 a year by impost. Connecticut consumes about one third of the goods upon which this impost is laid, and consequently pays one third of this sum to New York. If we import by the medium of Massachusetts, she raises an impost, and to her we pay a tribute. If this is done when we have the shadow of a national government, what shall we not suffer when even that shadow is gone!

If we go on as we have done, what is to become of the foreign debt? Will sovereign nations forgive us this debt, because we neglect to pay? or will they levy it by reprisals, and the laws of nations authorize them? Will our weakness induce Spain to relinquish the exclusive navigation of the Mississippi, or the territory which she claims on the east side of that river? Will our weakness induce the British to give up the northern posts? If a war breaks out, and our situation invites our enemies to make war, how are we to defend ourselves? Has government the means to enlist a man or buy an ox? Or shall we rally the remainder of our old army? The European nations I believe to be not friendly to us. They were pleased to see us disconnected from Great Britain; they are pleased to see us disunited among our-

selves. If we continue so, how easy it is for them to canton us out among them, as they did the kingdom of Poland! But supposing this is not done, if we suffer the union to expire, the least that may be expected is, that the European powers will form alliances, some with one state and some with another, and play the states off one against another, and that we shall be involved in all the labyrinths of European politics. But I do not wish to continue the painful recital; enough has been said to show that a power in the general government to enforce the decrees of the Union is absolutely necessary.

The Constitution before us is a complete system of legislative, judicial, and executive power. It was designed to supply the defects of the former system; and I believe, upon a full discussion, it will be found calculated to answer the purposes for which it was designed.

JANUARY 7, 1788. [*On the Power of Congress to lay Taxes.*]

OLIVER ELSWORTH. Mr. President, this is a most important clause in the Constitution; and the gentlemen do well to offer all the objections which they have against it. Through the whole of this debate, I have attended to the objections which have been made against this clause; and I think them all to be unfounded. The clause is general; it gives the general legislature "power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States." There are three objections against this clause — first, that it is too extensive, as it extends to all the objects of taxation; secondly, that it is partial; thirdly, that Congress ought not to have power to lay taxes at all.

The first objection is, that this clause extends to all the objects of taxation. But though it does extend to all, it does not extend to them exclusively. It does not say that Congress shall have all these sources of revenue, and the states none. All, excepting the impost, still lie open to the states. This state owes a debt; it must provide for the payment of it. So do all the other states. This will not escape the attention of Congress. When making calculations to raise a revenue, they will bear this in mind. They will not take away that which is necessary for the states. They are the head, and will take care that the members do

not perish. The state debt, which now lies heavy upon us, arose from the want of powers in the federal system. Give the necessary powers to the national government, and the state will not be again necessitated to involve itself in debt for its defence in war. It will lie upon the national government to defend all the states, to defend all its members, from hostile attacks. The United States will bear the whole burden of war. It is necessary that the power of the general legislature should extend to all the objects of taxation, that government should be able to command all the resources of the country; because no man can tell what our exigencies may be. Wars have now become rather wars of the purse than of the sword. Government must therefore be able to command the whole power of the purse; otherwise a hostile nation may look into our Constitution, see what resources are in the power of government, and calculate to go a little beyond us; thus they may obtain a decided superiority over us, and reduce us to the utmost distress. A government which can command but half its resources is like a man with but one arm to defend himself.

The second objection is, that the impost is not a proper mode of taxation; that it is partial to the Southern States. I confess I am mortified when I find gentlemen supposing that their delegates in Convention were inattentive to their duty, and made a sacrifice of the interests of their constituents. If, however, the impost be a partial mode, this circumstance, high as my opinion of it is, would weaken my attachment to it; for I abhor partiality. But I think there are three special reasons why an impost is the best way of raising a national revenue.

The first is, it is the most fruitful and easy way. All nations have found it to be so. Direct taxation can go but little way towards raising a revenue. To raise money in this way, people must be provident; they must constantly be laying up money to answer the demands of the collector. But you cannot make people thus provident. If you would do any thing to the purpose, you must come in when they are spending, and take a part with them. This does not take away the tools of a man's business, or the necessary utensils of his family: it only comes in when he is taking his pleasure, and feels generous; when he is laying out a

shilling for superfluities, it takes twopence of it for public use, and the remainder will do him as much good as the whole. I will instance two facts, which show how easily and insensibly a revenue is raised by indirect taxation. I suppose people in general are not sensible that we pay a tax to the state of New York. Yet it is an incontrovertible fact, that we, the people of Connecticut, pay annually into the treasury of New York more than fifty thousand dollars. Another instance I will mention: one of our common river sloops pays in the West Indies a portage bill of £60. This is a tax which foreigners lay upon us, and we pay it; for a duty laid upon our shipping, which transports our produce to foreign markets, sinks the price of our produce, and operates as an effectual tax upon those who till the ground, and bring the fruits of it to market. All nations have seen the necessity and propriety of raising a revenue by indirect taxation, by duties upon articles of consumption. France raises a revenue of twenty-four millions sterling per annum; and it is chiefly in this way. Fifty millions of livres they raise upon the single article of salt. The Swiss cantons raise almost the whole of their revenue upon salt. Those states purchase all the salt which is to be used in the country: they sell it out to the people at an advanced price; the advance is the revenue of the country. In England, the whole public revenue is about twelve millions sterling per annum. The land tax amounts to about two millions; the window and some other taxes, to about two millions more. The other eight millions are raised upon articles of consumption. The whole standing army of Great Britain could not enforce the collection of this vast sum by direct taxation. In Holland, their prodigious taxes, amounting to forty shillings for each inhabitant, are levied chiefly upon articles of consumption. They excise every thing, not excepting even their houses of infamy.

The experiments, which have been made in our own country, show the productive nature of indirect taxes. The imports into the United States amount to a very large sum. They never will be less, but will continue to increase for centuries to come. As the population of our country increases the imports will necessarily increase. They will increase, because our citizens will choose to be farmers, living independently on their freeholds, rather than to be manufacturers.

and work for a groat a day. I find by calculation that a general impost of 5 per cent. would raise the sum of £245,000 per annum, deducting 8 per cent. for the charges of collecting. A further sum might be deducted for smuggling—a business which is too well understood among us, and which is looked upon in too favorable a light. But this loss in the public revenue will be overbalanced by an increase of importations. And a further sum may be reckoned upon some articles which will bear a higher duty than the one recommended by Congress. Rum, instead of 4d. per gallon, may be set higher without any detriment to our health or morals. In England, it pays a duty of 4s. 6d. the gallon. Now, let us compare this source of revenue with our national wants. The interest of the foreign debt is £130,000 lawful money per annum. The expenses of the civil list are £37,000. There are likewise further expenses for maintaining the frontier posts, for the support of those who have been disabled in the service of the Continent, and some other contingencies, amounting, together with the civil list, to £130,000. This sum, added to the interest of the foreign debt, will be £260,000. The consequence follows, that the avails of the impost will pay the interest of the whole foreign debt, and nearly satisfy those current national expenses. But perhaps it will be said that these paper calculations are overdone, and that the real avails will fall far short. Let me point out, then, what has actually been done. In only three of the states, in Massachusetts, New York, and Pennsylvania, 160 or £180,000 per annum have been raised by impost. From this fact, we may certainly conclude that, if a general impost should be laid, it would raise a greater sum than I have calculated. It is a strong argument in favor of an impost, that the collection of it will interfere less with the internal police of the states than any other species of taxation. It does not fill the country with revenue officers, but is confined to the sea-coast, and is chiefly a water operation. Another weighty reason in favor of this branch of the revenue is, if we do not give it to Congress, the individual states will have it. It will give some states an opportunity of oppressing others, and destroy all harmony between them. If we would have the states friendly to each other, let us take away this bone of contention, and place it, as

it ought in justice to be placed, in the hands of the general government.

"But," says an honorable gentleman near me, "the impost will be a partial tax; the Southern States will pay but little in comparison with the Northern." I ask, What reason is there for this assertion? Why, says he, we live in a cold climate, and want warming. Do not they live in a hot climate, and want quenching? Until you get as far south as the Carolinas, there is no material difference in the quantity of clothing which is worn. In Virginia, they have the same course of clothing that we have; in Carolina, they have a great deal of cold, raw, chilly weather; even in Georgia, the River Savannah has been crossed upon the ice. And if they do not wear quite so great a quantity of clothing in those states as with us, yet people of rank wear that which is of a much more expensive kind. In these states, we manufacture one half of our clothing, and all our tools of husbandry; in those, they manufacture none, nor ever will. They will not manufacture, because they find it much more profitable to cultivate their lands, which are exceedingly fertile. Hence they import almost every thing, not excepting the carriages in which they ride, the hoes with which they till the ground, and the boots which they wear. If we doubt of the extent of their importations, let us look at their exports. So exceedingly fertile and profitable are their lands, that a hundred large ships are every year loaded with rice and indigo from the single port of Charleston. The rich return of these cargoes of immense value will be all subject to the impost. Nothing is omitted; a duty is to be paid upon the blacks which they import. From Virginia, their exports are valued at a million sterling per annum: the single article of tobacco amounts to seven or eight hundred thousand. How does this come back? Not in money; for the Virginians are poor, to a proverb, in money. They anticipate their crops: they spend faster than they earn: they are ever in debt. Their rich exports return in eatables, in drinkables, and in wearables. All these are subject to the impost. In Maryland, their exports are as great in proportion as those in Virginia. The imports and exports of the Southern States are quite as great in proportion as those of the Northern. Where, then, exists this partiality, which

nas been objected? It exists nowhere but in the uninformed mind.

But there is one objection, Mr. President, which is broad enough to cover the whole subject. Says the objector, Congress ought not to have power to raise any money at all. Why? Because they have the power of the sword; and if we give them the power of the purse, they are despotic. But I ask, sir, if ever there were a government without the power of the sword and the purse? This is not a new-coined phrase; but it is misapplied: it belongs to quite another subject. It was brought into use in Great Britain, where they have a king vested with hereditary power. Here, say they, it is dangerous to place the power of the sword and the purse in the hands of one man, who claims an authority independent of the people: therefore we will have a Parliament. But the king and Parliament together, the supreme power of the nation, — they have the sword and the purse. And they must have both; else, how could the country be defended? For the sword without the purse is of no effect: it is a sword in the scabbard. But does it follow, because it is dangerous to give the power of the sword and purse to an hereditary prince, who is independent of the people, that therefore it is dangerous to give it to the Parliament — to Congress, which is your Parliament — to men appointed by yourselves, and dependent upon yourselves? This argument amounts to this: you must cut a man in two in the middle, to prevent his hurting himself.

But, says the honorable objector, if Congress levies money, they must legislate. I admit it. Two legislative powers, says he, cannot legislate in the same place. I ask, Why can they not? It is not enough to say they cannot. I wish for some reason. I grant that both cannot legislate upon the same object at the same time, and carry into effect laws which are contrary to each other. But the Constitution excludes every thing of this kind. Each legislature has its province; their limits may be distinguished. If they will run foul of each other, if they will be trying who has the hardest head, it cannot be helped. The road is broad enough; but if two men will jostle each other, the fault is not in the road. Two several legislatures have in fact existed and acted at the same time in the same territory. It is in vain to say they cannot exist, when they actually have

done it. In the time of the war, we had an army. Who made the laws for the army? By whose authority were offenders tried and executed? Congress. By their authority a man was taken, tried, condemned, and hanged, in this very city. He belonged to the army; he was a proper subject of military law; he deserted to the enemy; he deserved his fate. Wherever the army was, in whatever state, there Congress had complete legislative, judicial, and executive power. This very spot where we now are is a city. It has complete legislative, judicial, and executive powers; it is a complete state in miniature. Yet it breeds no confusion, it makes no schism. The city has not eaten up the state, nor the state the city. But if there be a new city, if it have not had time to unfold its principles, I will instance the city of New York, which is, and long has been, an important part of that state; it has been found beneficial; its powers and privileges have not clashed with the state. The city of London contains three or four times as many inhabitants as the whole state of Connecticut. It has extensive powers of government, and yet it makes no interference with the general government of the kingdom. This Constitution defines the extent of the powers of the general government. If the general legislature should at any time overleap their limits, the judicial department is a constitutional check. If the United States go beyond their powers, if they make a law which the Constitution does not authorize, it is void; and the judicial power, the national judges, who, to secure their impartiality, are to be made independent, will declare it to be void. On the other hand, if the states go beyond their limits, if they make a law which is a usurpation upon the general government, the law is void; and upright, independent judges will declare it to be so. Still, however, if the United States and the individual states will quarrel, if they want to fight, they may do it, and no frame of government can possibly prevent it. It is sufficient for this Constitution, that, so far from laying them under a necessity of contending, it provides every reasonable check against it. But perhaps, at some time or other, there will be a contest; the states may rise against the general government. If this do take place, if all the states combine, if all oppose, the whole will not eat up the members, but the measure which is opposed to the sense of the people will prove abortive. In

republics, it is a fundamental principle that the majority govern, and that the minority comply with the general voice. How contrary, then, to republican principles, how humiliating, is our present situation! A single state can rise up, and put a *veto* upon the most important public measures. We have seen this actually take place. A single state has controlled the general voice of the Union; a minority, a very small minority, has governed us. So far is this from being consistent with republican principles, that it is, in effect, the worst species of monarchy.

Hence we see how necessary for the Union is a coercive principle. No man pretends the contrary: we all see and feel this necessity. The only question is, Shall it be a coercion of law, or a coercion of arms? There is no other possible alternative. Where will those who oppose a coercion of law come out? Where will they end? A necessary consequence of their principles is a war of the states one against the other. I am for coercion by law — that coercion which acts only upon delinquent individuals. This Constitution does not attempt to coerce sovereign bodies, states, in their political capacity. No coercion is applicable to such bodies, but that of an armed force. If we should attempt to execute the laws of the Union by sending an armed force against a delinquent state, it would involve the good and bad, the innocent and guilty, in the same calamity.

But this legal coercion singles out the guilty individual, and punishes him for breaking the laws of the Union. All men will see the reasonableness of this; they will acquiesce, and say, Let the guilty suffer.

How have the morals of the people been depraved for the want of an efficient government, which might establish justice and righteousness! For the want of this, iniquity has come in upon us like an overflowing flood. If we wish to prevent this alarming evil, if we wish to protect the good citizen in his right, we must lift up the standard of justice; we must establish a national government, to be enforced by the equal decisions of law, and the peaceable arm of the magistrate.

JANUARY 9, 1788. Gov. HUNTINGDON. Mr. President, I do not rise to detain this Convention for any length of time. The subject has been so fully discussed, that very little can be added to what has already been offered. I

have heard and attended with pleasure to what has been said on it. The importance of it merited a full and ample discussion. It does not give me pain, but pleasure, to hear the sentiments of those gentlemen who differ from me. It is not to be expected from human nature that we should all have the same opinion. The best way to learn the nature and effects of different systems of government, is not from theoretical dissertations, but from experience—from what has actually taken place among mankind. From this same source it is that mankind have obtained a more complete knowledge of the nature of government than they had in ages past. It is an established truth that no nation can exist without a coercive power—a power to enforce the execution of its political regulations. There is such a love of liberty implanted in the human heart, that no nation ever willingly gave up its liberty. If they lose this inestimable birthright of men, it is not for a want of the will, but of the proper means to support it. If we look into history, we shall find that the common avenue through which tyranny has entered in, and enslaved nations who were once free, has been their not supporting government.

The great secret of preserving liberty is, to lodge the supreme power so as to be well supported, and not abused. If this could be effected, no nation would ever lose its liberty. The history of man clearly shows that it is dangerous to intrust the supreme power in the hands of one man. The same source of knowledge proves that it is not only inconvenient, but dangerous to liberty, for the people of a large community to attempt to exercise in person the supreme authority. Hence arises the necessity that the people should act by their representatives; but this method, so necessary for civil liberty, is an improvement of modern times. Liberty, however, is not so well secured as it ought to be, when the supreme power is lodged in one body of representatives. There ought to be two branches of the legislature, that one may be a check upon the other. It is difficult for the people at large to know when the supreme power is verging towards abuse, and to apply the proper remedy. But if the government be properly balanced, it will possess a renovating principle, by which it will be able to right itself. The constitution of the British nation affords us great light upon the subject of government. Learned men in other countries

have admired it, though they thought it too fine-spun to prove beneficial in practice. But a long trial has now shown its excellence; and the difficulties which that nation now experiences arise not from their constitution, but from other circumstances.

The Author of nature has given mankind a certain degree of insight into futurity. As far as we can see a probability that certain events will happen, so far we do well to provide and guard. But we may attempt to go too far. It is in vain to think of providing against every possible contingency. The happiness of society depends not merely upon its constitution of government, but upon a variety of circumstances. One constitution may suit one particular nation exceedingly well, when a different one would suit another nation in different circumstances. Even among the American states, there is such a difference in sentiments, habits, and customs, that a government which might be very suitable for one might not be agreeable to the other.

I am fully of opinion that the great council of the Union must have a controlling power with respect to national concerns. There is, at present, an extreme want of power in the national government; and it is my opinion that this Constitution does not give too much. As to the subject of representation, at the first view it appears small; but, on the whole, the purposes of the Union could not be so well answered by a greater number. It is impracticable to have the number of the representatives as great, and times of election as frequent, as they are in our state governments. Nor is this necessary for the security of our liberty. It is sufficient if the choice of our representatives be so frequent that they must depend upon the people, and that an inseparable connection be kept up between the electors and the elected.

The state governments, I think, will not be endangered by the powers vested by this Constitution in the general government. While I have attended in Congress, I have observed that the members were quite as strenuous advocates for the rights of their respective states, as for those of the Union. I doubt not but that this will continue to be the case; and hence I infer that the general government will not have the disposition to encroach upon the states. But still the people themselves must be the chief support of liberty

While the great body of freeholders are acquainted with the duties which they owe to their God, to themselves, and to men, they will remain free. But if ignorance and depravity should prevail, they will inevitably lead to slavery and ruin. Upon the whole view of this Constitution, I am in favor of it, and think it bids fair to promote our national prosperity.

This is a new event in the history of mankind. Heretofore most governments have been formed by tyrants, and imposed on mankind by force. Never before did a people, in time of peace and tranquillity, meet together by their representatives, and, with calm deliberation, frame for themselves a system of government. This noble attempt does honor to our country. While I express my sentiments in favor of this Constitution, I candidly believe that those gentlemen who oppose it are actuated by principles of regard to the public welfare. If we will exercise mutual candor for each other, and sincerely endeavor to maintain our liberties, we may long continue to be a free and happy people.

Hon. RICHARD LAW. Mr. President, the important subject before us has been examined so particularly, that I do not expect to add any thing new. As we have been a long time poring upon the defective parts of the Constitution, I think it will not be amiss to pay some attention to its excellences. There is one clause in it which provides a remedy for whatever defects it may have. The clause to which I refer is that which provides that, whenever two thirds of Congress, or a convention to be called at the instance of two thirds of the states, shall propose amendments, and they be agreed to by three fourths of the states, such amendments shall be valid, as part of the Constitution. This is an easy and peaceable way of amending any parts of the Constitution which may be found inconvenient in practice.

As this is a most important question, as it concerns not only present but future generations, we ought to consider it upon its real merits, without suffering our minds to be misled by examples of other nations, whose circumstances are very different from ours. Some have been led into a mistake, by comparing a part of this Constitution with that of Great Britain. But this is very different from theirs. Our President is not a King, nor our Senate a House of Lords. They do not claim an independent, hereditary authority. But the whole is elective; all dependent on the people. The Presi-

ent, the Senate, the Representatives, are all creatures of the people. Therefore the people will be secure from oppression; though I admit that, if our President and Senate were possessed of an independent, hereditary authority, the democratical branch would be too weak for the others.

Some suppose that the general government, which extends over the whole, will annihilate the state governments. But consider that this general government rests upon the state governments for its support. It is like a vast and magnificent bridge, built upon thirteen strong and stately pillars. Now, the rulers, who occupy the bridge, cannot be so beside themselves as to knock away the pillars which support the whole fabric. But, some say, a free government, like this, has not energy enough to pervade a country of such vast extent.

We are not satisfied with this assertion. We want to try the experiment. A free system of government is now presented to our acceptance. We shall be wanting to ourselves, if, instead of adopting it, we wait for the arm of tyranny to impose upon us a system of despotism. The finger of Providence is evidently to be seen in the political affairs of this country. The old Articles of Confederation were once the best that we should have been willing to adopt. We have been led on by imperceptible degrees to see that they are defective; and now, if it be the design of Providence to make us a great and happy people, I believe that he who turns the hearts of the children of men as the wheels of water are turned, will induce the people of the United States to accept of a Constitution which is well calculated to promote their national welfare.

Hon. OLIVER WOLCOTT. Mr. President, I do not expect to throw any new light on a subject which has been so fully discussed. Yet I cannot content myself without giving my opinion more explicitly than by a silent vote. It is generally agreed that the present Confederation is inadequate to the exigencies of our national affairs. We must therefore adopt this plan of government, or some other, or risk the consequences of disunion. As the present Articles of Confederation are inadequate, we ought to consider whether this Constitution be as good as can be agreed on by so many different states, or whether it be a dangerous system; whether it secures the liberties of the people, or whether its tendency be unfavorable to the rights of a free

people. I have given it all the consideration in my power, and I have, a considerable time since, made up my mind on the subject, and think it my duty to give my voice in favor of adopting it. It is founded upon the election of the people. If it varies from the former system, or if it is to be altered hereafter, it must be with the consent of the people. This is all the security in favor of liberty that can be expected. Mankind may become corrupt, and give up the cause of freedom; but I believe that love of liberty which prevails among the people of this country will prevent such a direful calamity.

The Constitution effectually secures the states in their several rights. It must secure them for its own sake; for they are the pillars which uphold the general system. The Senate, a constituent branch of the general legislature, without whose assent no public act can be made, are appointed by the states, and will secure the rights of the several states. The other branch of the legislature, the Representatives, are to be elected by the people at large. They will therefore be the guardians of the rights of the great body of the citizens. So well guarded is this Constitution throughout, that it seems impossible that the rights either of the states or of the people should be destroyed.

I do not see the necessity of such a *test* as some gentlemen wish for. The Constitution enjoins an oath upon all the officers of the United States. This is a direct appeal to that God who is the avenger of perjury. Such an appeal to him is a full acknowledgment of his being and providence. An acknowledgment of these great truths is all that the gentleman contends for. For myself, I should be content either with or without that clause in the Constitution which excludes test laws. Knowledge and liberty are so prevalent in this country, that I do not believe that the United States would ever be disposed to establish one religious sect, and lay all others under legal disabilities. But as we know not what may take place hereafter, and any such test would be exceedingly injurious to the rights of free citizens, cannot think it altogether superfluous to have added a clause which secures us from the possibility of such oppression. I shall only add, that I give my assent to this Constitution, and am happy to see the states in a fair way to adopt a Constitution which will protect their rights and promote their welfare.

NEW HAMPSHIRE CONVENTION.

[A friend has favored the editor with the following fragment, being the only speech known to be preserved in the New Hampshire Convention on adopting the federal Constitution of the United States.]

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PAGE 7, SEC. 9th. "The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

The Hon. Mr. DOW, from Weare, spoke very sensibly and feelingly against this paragraph.

Several members, on the other side, spoke in favor of it, with remarks on what Mr. Dow had said; after which, the Hon. JOSHUA ATHERTON, from Amherst, spoke as follows:—

Mr. President, I cannot be of the opinion of the honorable gentlemen who last spoke, that this paragraph is either so useful or so inoffensive as they seem to imagine, or that the objections to it are so totally void of foundation. The idea that strikes those, who are opposed to this clause, so disagreeably and so forcibly, is, hereby it is conceived (if we ratify the Constitution) that we become *consenters to*, and *partakers in*, the sin and guilt of this abominable traffic, at least for a certain period, without any positive stipulation that it should even then be brought to an end. We do not behold in it that valuable acquisition so much boasted of by the honorable member from Portsmouth, "*that an end is then to be put to slavery.*" Congress may be as much, or more, puzzled to put a stop to it then, than we are now. The clause has not secured its abolition.

We do not think ourselves under any obligation to perform works of supererogation in the reformation of mankind; we do not esteem ourselves under any necessity to go to

Spain or Italy to suppress the inquisition of those countries; or of making a journey to the Carolinas to abolish the detestable custom of enslaving the Africans; but, sir, we will not lend the aid of our ratification to this cruel and inhuman merchandise, not even for a day. There is a great distinction in not taking a part in the most barbarous violation of the sacred laws of God and humanity, and our becoming guaranties for its exercise for a term of years. Yes, sir, it is our full purpose to wash our hands clear of it; and, however unconcerned spectators we may remain of such predatory infractions of the laws of our nature, however unfeelingly we may subscribe to the ratification of manstealing, with all its baneful consequences, yet I cannot but believe, in justice to human nature, that, if we reserve the consideration, and bring this claimed power somewhat nearer to our own doors, we shall form a more equitable opinion of its claim to this ratification. Let us figure to ourselves a company of these manstealers, well equipped for the enterprise, arriving on our coast. They seize and carry off the whole or a part of the inhabitants of the town of Exeter. Parents are taken, and children left; or possibly they may be so fortunate as to have a whole family taken and carried off together by these relentless robbers. What must be their feelings in the hands of their new and arbitrary masters? Dragged at once from every thing they held dear to them — stripped of every comfort of life, like beasts of prey — they are hurried on a loathsome and distressing voyage to the coast of Africa, or some other quarter of the globe, where the greatest price may await them; and here, if any thing can be added to their miseries, comes on the heart-breaking scene! A parent is sold to one, a son to another, and a daughter to a third! Brother is cleft from brother, sister from sister, and parents from their darling offspring! Broken with every distress that human nature can feel, and bedewed with tears of anguish, they are dragged into the last stage of depression and slavery, never, never to behold the faces of one another again! The scene is too affecting. I have not fortitude to pursue the subject!

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THE
DEBATES
IN
THE CONVENTION
OF
THE STATE OF NEW YORK,
ON THE
ADOPTION OF THE FEDERAL CONSTITUTION.

IN CONVENTION, POUGHKEEPSIE, *June 17, 1788.*

ON the 1st of February, 1788, the legislature of the state of New York passed a resolution in the words following, to wit:—

“ *Whereas* the United States, in Congress assembled, did, on the 28th day of September last, unanimously resolve, that the report of the Convention of the states lately assembled in Philadelphia, with the resolutions and letter accompanying the same, be transmitted to the several legislatures, in order to be submitted to a Convention of delegates, chosen in each state by the people thereof, in conformity to the resolves of the Convention, made and provided in that case, — Therefore,

“ *Resolved*, as the sense of the legislature, that the said report, with the said resolutions and letter accompanying the same, be submitted to a Convention of delegates to be chosen by the people of this state; that it be recommended to the people of this state to choose, by ballot, delegates to meet in Convention for the purpose aforesaid; that the number of delegates to be elected be the same as the number of members of Assembly from the respective cities and counties; that all free male citizens of the age of twenty-one years and upwards be admitted to vote, and that any person of that description be eligible; that the election be held on the last Tuesday in April next, at the same respective places where the elections for members of Assembly shall be held, and be continued by adjournment from day to day, until the same shall be completed, not exceeding five days; that the inspectors, who shall inspect the election for members of Assembly, be also inspectors of the election of delegates; that the inspectors do also appoint two clerks, each of whom shall keep a poll list of the electors for delegates; that the inspectors do provide a box to receive the ballots for delegates; that the poll books or lists shall, after due examination and correction, be signed by the inspectors attending at the closing of the poll, and the clerks who shall have kept the same poll books,

respectively; and then the box containing the ballots for delegates shall be opened, and the ballots therein contained taken out, and, without being inspected, shall, together with the poll books or lists for delegates, be immediately put up under cover and enclosed, and the enclosure bound with tape, and sealed in such manner as to prevent its being opened without discovery; and the inspectors present at the closing of the poll shall then put their seals, and write their names, upon the same enclosure, and one of the inspectors then present, to be appointed by a majority of them, shall deliver the same enclosure, so sealed up as aforesaid, to the clerk of the county, without delay, who shall carefully preserve and keep the same, unbroken and unopened, until the meeting of the persons who are to canvass and estimate the ballots therein contained, when he shall deliver the same enclosure, unbroken and unopened, to them; that the person authorized by law to canvass and estimate the votes for members of Assembly, do, also, immediately after they shall have canvassed and estimated the votes to be taken at the election to be held on the last Tuesday in April next, for members of Assembly, proceed to open the said enclosures containing the ballots for the delegates, and canvass and estimate the votes taken for delegates; and when, as soon as they shall be able to determine, upon such canvass or estimate, who, by the greatest number of votes, shall have been chosen for delegates for the city and county, they shall determine the same, and thereupon, without delay, make, and subscribe with their own proper names and hand-writing, the requisite number of certificates of such determination, and cause one to be delivered to each of the persons so elected a delegate; and that the said election and canvass shall, in every other respect not herein provided for, be conducted in like manner as is provided for by law for holding elections for members of Assembly; that the delegates, so to be chosen, do meet in convention at the court-house in Poughkeepsie, in the county of Dutchess, on the third Tuesday of June next; that the clerks of the Senate and Assembly do forthwith, after the Convention shall have assembled, deliver to them copies of the said report, and of the letter and resolutions which accompanied the same to Congress, and of the said resolution of Congress; that the delegates be allowed the same wages as the members of Assembly, and that it will be proper for the legislature, at their next meeting, to provide for the payment thereof."

In pursuance of the above resolution, an election was held in the several counties, and the following gentlemen were returned:—

From the City and County of New York.—John Jay, Richard Morris, John Sloss Hobart, Alexander Hamilton, Robert R. Livingston, Isaac Roosevelt, James Duane, Richard Harrison, Nicholas Low.

From the City and County of Albany.—Robert Yates, John Lansing, Jun., Henry Outhoudt, Peter Vroman, Israel Thompson, Anthony Ten Eyck, Dirck Swart.

From the County of Suffolk.—Henry Scudder, Jonathan N. Havens, John Smith, Thomas Tredwell, David Hedges.

From the County of Ulster.— Governor Clinton, John Cantine, Cor. C. Schoonmaker, Ebenezer Clark, James Clinton, Dirck Wynkoop.

From the County of Queens.— Samuel Jones, John Schenck, Nathaniel Lawrence, Stephen Carman.

From the County of Kings.— Peter Lefferts, Peter Vandervoort.

From the County of Richmond.— Abraham Bancker, Gozen Ryerss.

From the County of Westchester.— Lewis Morris, Philip Livingston, Richard Hatfield, Philip Van Courtland, Thaddeus Crane, Lott W. Sarls.

From the County of Orange.— John Haring, Jesse Woodhull, Henry Wisner, John Wood.

From the County of Dutchess.— Zephaniah Platt, Melancton Smith, Jacobus Swartwout, Jonathan Akins, Ezra Thompson, Gilbert Livingston, John De Witt.

From the County of Montgomery.— William Harper, Christopher P. Yates, John Frey, John Winn, Volkert Veeder, Henry Staring.

From the County of Columbia.— Peter Van Ness, John Bay, Matthew Adgate.

From the Counties of Washington and Clinton.— Ichabod Parker, John Williams, Albert Baker, David Hopkins.

The Convention, having accordingly assembled on the 17th of June, unanimously elected his excellency, GEORGE CLINTON, president. After appointing the proper subordinate officers, and having ordered that the doors should be kept open, and the business of the Convention opened every morning with prayer, Mr. Duane, Mr. Jones, Mr. R. Morris, Mr. Lansing, and Mr. Harris, were chosen a committee to report rules for conducting the business.

Next day, the *committee of regulations* brought in their report, on which the following resolves were passed, viz. :—

1st. That, at the meeting of the Convention each day, the minutes of the preceding day shall in the first place be read, at which times, mistakes, if any, shall be corrected.

2d. That all motions and addresses be made to the chair, and standing.

3d. That every motion made and seconded, except motions for adjournment, shall be handed to the chair in writing and there read before any debate or question taken thereon

4th. That, upon every question taken, the yeas and nays shall be entered, if requested by any two members.

5th. That, if two members rise to speak, and there shall be a dispute which of them rose first, it shall be determined by the president.

6th. That no interruption shall be suffered while a member is addressing the chair, but by a call to order by the president, or by a member through the president.

7th. That no member be referred to by name in any debate.

8th. That, if any member shall transgress the rules a second time, the president may refer to him by name ; that the Convention may examine and censure the member's conduct, he being allowed to extenuate or justify.

9th. That any member, making a motion, may withdraw it before the question is put thereon ; after which any other member may renew the same motion, if he thinks proper.

10th. That the appointment of all committees shall be by ballot.

11th. That none be admitted within the bar, excepting the members and secretaries.

12th. That the preceding rules shall be observed when the Convention resolves itself into a committee of the whole.

The Constitution reported by the general Convention was then read, together with the resolutions and letter accompanying the same to Congress, and the resolve of Congress thereon ; after which the Convention, on motion of Mr. Lansing, agreed to resolve itself, the succeeding day, into a committee of the whole.

On the 19th of June, the Convention met, pursuant to adjournment, and, the order of the day being read, resolved itself into a committee of the whole, and Mr. OUTHOUDT was called to the chair.

The Constitution being again read, the Hon. ROBERT R. LIVINGSTON rose, and addressed the chair as follows : —

Mr. Chairman, as the preamble of the plan under consideration comprises the great objects of the Union, it will be proper, at this place, to introduce such general observations as may with less propriety be noticed, when particular articles are under consideration, and which may serve, at the same time, to show the necessity of adopting some more

efficacious plan of union, than that by which we are now bound. In the course of the observations I shall make with this view, many things will be urged that will be of little use to those gentlemen who have heard all that has been said, who have read all that has been written on this subject, and who have formed their judgments after mature consideration. With such, all debate is unnecessary. But I trust, sir, there are many gentlemen present, who have yet formed no decided opinion on the important question before us, and who (like myself) bring with them dispositions to examine whatever shall be offered, and not to determine till after the maturest deliberation. To such I address myself.

Ever since a pure and perfect religion has lent her mild lights to philosophy, and extended her influence over the sentiments of men, it has been a received opinion that the happiness of nations, as well as of individuals, depends on peace, and that intimate connection which mutual wants occasion. To establish this on the basis of a general union of nations, has, at various times, employed the thoughts and attention of wise and virtuous men. It is said to have been the last great plan of the illustrious Henry IV. of France, who was justly esteemed one of the wisest and best of princes. But, alas! sir, in the old world, every attempt of this nature will prove abortive. There, governments are the children of force or fraud, and carry with them strong features of their parent's character. Disputes will not be referred to a common umpire, unless that umpire has power to enforce his decrees; and how can it be expected that princes, jealous of power, will consent to sacrifice any portion of it to the happiness of their people, who are of little account in their estimation? Differences among them, therefore, will continue to be decided by the sword, and the blood of thousands will be shed before the most trifling controversy can be determined. Even Peace can hardly be said to bestow her usual blessings on them; their mutual jealousies convert peace into an armed truce. The husbandman feels the oppression of standing armies, by whom the fruits of his labor are devoured; and the flower of youth is sacrificed to the rigors of military discipline. It has pleased Heaven to afford the United States means for the attainment of this great object, which it has withheld from other nations. They speak the same language; they profess the same reli-

gion ; and, what is of infinitely more importance, they acknowledge the same great principle of government—a principle, if not unknown, at least little understood in the old world—that *all power is derived from the people*. They consider the state and the general governments as different deposits of that power. In this view, it is of little moment to them whether that portion of it which they must, for their own happiness, lodge in their rulers, be invested in the state governments only, or shared between them and the councils of the Union. The rights they reserve are not diminished, and probably their liberty acquires an additional security from the division.

Let us not, then, sir, neglect to improve the advantages we possess ; let us avail ourselves of the present moment to fix lasting peace upon the broad basis of national union ; let us, while it is still in our power, lay the foundation of our own happiness, and that of our posterity. Jealousies may spring up ; the seeds of them are already sown ; the present moment may be the only one afforded for eradicating them.

I am too well satisfied, sir, of the virtue and patriotism of those to whom I address myself, to suppose that their determination will be influenced by any unworthy motive. But, sir, I dread the effect which a hasty or partial review may have on their minds ; and, above all things, I dread lest the chimerical ideas of perfection in government, which gentlemen may have formed, should induce them to reject this, as falling short of their standard. Perfection, sir, is not the lot of humanity ; and perhaps, were the gentlemen on this floor to compare their sentiments on this subject, no two of them would be found to agree. Nay, such is the weakness of our judgment, that it is more than probable that, if a perfect plan was offered to our choice, we should conceive it defective, and condemn it. The only people whose government was visibly directed by God himself, rejected his administration, and induced him, in his wrath, to give them a king. Let us be cautious, sir, lest, by our negligence or eager pursuit after chimerical perfection, we should forfeit the blessings we enjoy, and lose this precious opportunity of completing what other nations have been unable to effect.

As, on the one hand, sir, our situation admits of a union, so, on the other, our distresses point out its necessity. I will not, at this time, touch on the declining state of our

commerce; nor will I remind you of our national bankruptcy, of the effect it has upon our public measures, and the private misery that it causes; nor will I wound your feelings by a recapitulation of the insults we daily receive from nations whose injuries we are compelled to repay by the advantages of our commerce. These topics have been frequently touched; they are in every man's mind; they lie heavy at every patriot's heart. They have induced states, the most independent in their situation, to unite in their endeavors to remove them; they operate with peculiar force on us. Permit me, however, to make some observations, drawn from our particular situation, and which will show, in the clearest light, that our existence, as a state, depends on a strong and efficient federal government.

He went into a minute consideration of the natural advantages of this state, drawn from its valuable and abundant staples; the situation of its principal seaport; the command of the commerce of New Jersey, by the rivers discharging themselves in our bay; the facility that the Sound afforded for an intercourse with the Eastern States. He observed upon the advantages resulting from the Hudson, which he described as bearing upon its bosom the wealth of the remotest part of the state. He touched upon the prospects that a lasting peace afforded of commanding the treasures of the western world, by the improvement of our internal navigation. He said, that to these natural advantages we might add many other adventitious circumstances. He observed, that a considerable proportion of our domestic debt was already in the treasury, and though we were indebted for a part of this to our citizens, yet that debt was comparatively small, and could easily be extinguished by an honest exertion on the part of the government. He observed, that our back lands were competent to the discharge of our foreign debt, if a vigorous government should be adopted, which would enable us to avail ourselves of this resource; so that we might look forward to a day when no other taxes would be required from us than such as would be necessary to support our internal government, the amount of the impost being more than adequate to the other expenses of the Union. He feared that a prospect of these advantages had excited an improper confidence in ourselves; that it has produced an inflexibility, which had rendered us regardless of the

wishes and expectations of the other states, and lessened that respect which was due, as well from nations to each other, as from individuals. We have insisted, says he, that every knee shall bow to the golden image we have set up. But let us remember that, how valuable soever the materials of which its nobler parts are composed, its feet (like those of the image in the vision) are composed of iron and clay, of materials that will not adhere together, and which the slightest shock will tumble on the earth.

He observed, that wealth excited envy, stimulated avarice, and invited invasions; that, if the Union was dissolved, we could only be protected by our domestic force. He then urged the incapacity of the state to defend itself, from the detached situation of its ports, remarking particularly upon that of Staten Island and Long Island; their vicinity to states, which, in case of a disunion, must be considered as independent, and perhaps unfriendly powers. He turned the attention of the committee to the north-east, where he showed Vermont ready to avail itself of our weakness, speaking of the people of that state, as a brave and hardy body of men, that we had neither the spirit to subdue, nor, what he more strongly recommended, the magnanimity to yield to. On the north-west, he pointed to the British posts, and hostile tribes of savages. He showed that, in case of domestic war, Hudson River, that great source of our wealth, would also be that of our weakness, by the intersection of the state, and the difficulty we should find in bringing one part to support the other.

He then ran over the alliances that would be formed in case of a disunion; pointed out the connection between the Eastern States, and urged various reasons to show that it was neither the interest nor wish of the states, on the east or west, to form a league offensive or defensive with us. Having dwelt largely on this subject, he deduced, as a consequence from it, that our wealth and our weakness equally required the support of a federal union. He observed that this could only be found in the existing Confederation, or in that under consideration; urging that, as union could only be founded on the consent of the states, it should be sought where we had reason to expect that consent; that to depart from this would be to investigate as many ideal systems as there were persons who had thought on the sub-

ject of government. He observed that, in the then state of things, it was problematical, at least, whether we would recur to the old Confederation; but, as many gentlemen thought it possible, he would proceed to investigate it. He then went through the Confederation, and showed that the powers intended to be vested in Congress were very similar to those given by the new government, to wit: to raise troops, possess a common treasure, borrow money, make treaties, appoint civil officers, &c. He observed that as, on the one hand, the want of these powers would not be objected to in the Confederation, so, on the other, the possession of them could not be urged as a fault in the new plan.

He asked whether, with these powers, it had been able to effect the purposes designed by the Union; whether it had repelled invaders, maintained domestic peace, supported our credit, or extended our commerce. He proved that not one of these objects had been effected by it. He pointed to the British possessions in the limits of this state, held in defiance of the most solemn treaties, and contempt of our government, as proof of its incompetency to defend our rights against foreign powers. How has it happened, said he, that Vermont is, at this moment, an independent state? How has it happened that new states have been rent from those on the west, that were entitled to protection? He asked if any gentlemen would assert that our national credit was fixed upon a proper basis; that our commerce enjoyed the advantages we had a right to expect. If, then, said he, experience has shown that the existing Confederation (if I may use the term) has not answered the great ends of the Union, it must either have arisen from an insufficiency in its powers, or from some defect in the execution of them: if insufficient, more should be added; if not executed, the cause should be inquired into. He showed that, with the addition of a few powers, those it possessed were competent to the purposes of the Union; but that the defect of the system rested in the impossibility of carrying into effect the rights invested in them by the states. He then ran through every power intended to be vested in Congress, and showed that the exercise of them, by the intervention of the state governments, and subject to their pleasure or their different views of the matters recommended to them, would be attended with insuperable difficulties, inconveniences, and

delays, even if they were disposed to carry them into effect; but that, if (which, experience had shown, would often be the case) they should either neglect or refuse to comply with the requisition, no means were pointed out by the Confederation to coerce them, but that it was left, as all leagues among nations, to military force. He showed, in a strong point of view, the danger of applying this; and deduced from all those observations, that the old Confederation was defective in its principle, and impeachable in its execution, as it operated upon states in their political capacity, and not upon individuals; and that it carried with it the seeds of domestic violence, and tended ultimately to its dissolution. He then appealed to our experience in the late war, to show the operation of this system, and demonstrated that it must, from its own construction, leave every state to struggle with its own difficulties, and that none would be roused to action but those that were near the seat of war. He alleged that this idea of a federal republic, on the ground of a league among independent states, had, in every instance, disappointed the expectations of its advocates. He mentioned its effects in the ancient republics, and took a view of the union of the Netherlands, and showed that, even when they were struggling for every thing that was dear to them, in the contest with Spain, they permitted the burden of the war to be borne, in a great measure, by the province of Holland; which was, at one time, compelled to attempt to force a neighboring province, by arms, to a compliance with their federal engagements. He cited the Germanic league, as a proof that no government, formed on the basis of the total independency of its parts, could produce the effects of union. He showed that, notwithstanding the power of their federal head, from his hereditary dominions, the decrees of their general diet were little regarded, and different members of the confederacy were perpetually rushing upon each other's swords.

He then observed upon the necessity of adding to the powers of Congress, that of regulating the militia, referring to the article in the proposed plan, which he said he would not anticipate. He urged the common consent of America as a proof of the necessity of adding the power of regulating commerce to those Congress already possessed, which, he said, not only included those of forming laws, but of deciding upon those laws, and carrying them into effect; that this power

could never be trusted to the individual states, whose interests might, in many instances, clash with that of the Union. From hence he inferred the necessity of a federal judiciary; to which he would have referred not only the laws for regulating commerce, but the construction of treaties and other great national objects, — showing that, without this, it would be in the power of any state to commit the honor of the Union, defeat their most beneficial treaties, and involve them in a war. He next adverted to the form of the federal government. He said that, though justified when considered as a mere diplomatic body, making engagements for its respective states, which they were to carry into effect, yet, if it was to enjoy legislative, judicial, and executive powers, an attention as well to the facility of doing business as to the principles of freedom, called for a division of those powers. After commenting on each of them, and showing the mischief that would flow from their union in one House of Representatives, and those, too, chosen only by the legislatures, and neither representing the people nor the government, (which he said consisted of legislative, executive, and judicial,) he proposed the Constitution of this state as the model for the state governments.

From these observations he deduced, first, that the powers which were, by common consent, intended to be vested in the federal head, had either been found deficient, or rendered useless by the impossibility of carrying them into execution, on the principle of a league of states totally separate and independent; — secondly, that, if the principle was changed, a change would also become necessary in the form of the government; but if we could no longer retain the old principle of the confederacy, and were compelled to change its form, we were driven to the necessity of creating a new constitution, and could find no place to rest upon in the old Confederation; that he had urged these considerations to fix gentlemen's attention to the only true ground of inquiry; to keep them from reverting to plans which had no single feature that could now be serviceable, and to lead the way to a minute discussion of every article with candor and deliberation; and, in order that this might be the better effected, and no gentleman pledged before he had fully considered the subject, he intended, before he sat down, to move the resolution he had in his hand. He considered the question as one that not only affected the happiness, and

perhaps the existence, of this state, but as one that involved the great interests of humanity. Many of us, sir, said he, are officers of government; many of us have seats in the Senate and Assembly: let us, on this solemn occasion, forget the pride of office; let us consider ourselves as simple citizens, assembled to consult on measures that are to promote the happiness of our fellow-citizens. As magistrates, we may be unwilling to sacrifice any portion of the power of the state; as citizens, we have no interest in advancing the powers of the state at the expense of the Union. We are only bound to see that so much power as we find it necessary to intrust to our rulers, be so placed as to insure our liberties, and the blessings of a well-ordered government.

He then offered a resolution, the purport of which was, "That no question, general or particular, should be put in the committee upon the proposed Constitution of government for the United States, or upon any clause or article thereof, nor upon any amendment which should be proposed thereto, until after the said Constitution and amendments should have been considered clause by clause."

The said resolution, being taken into consideration, was agreed to by the Convention.

The committee then rose, and the Convention adjourned till next day, 10 o'clock, A. M.

FRIDAY, *June 20, 1788.* — Convention met pursuant to adjournment. Went into committee of the whole, Mr. Outshoudt in the chair.

The Hon. Mr. LANSING then rose, and addressed the chair as follows: —

Mr. Chairman, I am equally disposed with the honorable gentleman from New York, who favored the committee with his sentiments yesterday, to a candid and dispassionate investigation of the important business now under consideration, and to receive every possible information on the occasion.

I do not mean to state any objections to the clause now read, but wish the indulgence of the committee, while I make some observations in answer to those which were given to the committee by the honorable gentleman from New York.

Sir, the project devised by Henry IV., in his closet, to form a confederated republic of the European states, may perhaps be considered as visionary in its object, but originating in motives which were in some measure peculiar to him-

self, as, from the power and importance he possessed, he might have flattered himself that he should have been at the head of it. But a difference in language, manners, religion, and interests of their sovereigns, would have defeated it, if it had been attempted. Here a confederated republic is only more attainable from the circumstances of all the powers existing in, or originating from, the people, and a similarity of language and manners. We ought, therefore, to be extremely cautious how we establish a government which may give distinct interests to the rulers and governed, so as to induce the former to pursuits adverse to the happiness of the United States.

It has been observed, that, as the people must, of necessity, delegate essential powers either to the individual or general sovereignties, it is perfectly immaterial where they are lodged; but, as the state governments will always possess a better representation of the feelings and interests of the people at large, it is obvious that those powers can be deposited with much greater safety with the state than the general government.

I am equally averse to cherishing, on this occasion, the idea of obtaining a perfection which never existed, and to despairing of making important amendments to the system now offered for consideration; for, sir, however much I may be disposed to perpetuate union, however sensible of the defects of the existing Confederation, I cannot help differing from those gentlemen who are of opinion it is incapable of amelioration.

I would ask, What are the objections which have been so ably urged against it? They are comprised under two heads. First, it affords no defence against foreign assault; second, no security to domestic tranquillity. Both these objects might be compassed if Congress could be vested with a power to raise men and money.

Requisitions made under the existing Confederation by Congress, it is allowed, are insufficient; but this defect might, as a great measure, have been remedied by permitting the United States to legislate on individuals after the requisitions had been made, and not been complied with. If the requisition could be thus enforced, loans of money might be negotiated when necessary, and Congress be authorized to raise money to replace them.

The languishing situation of our commerce has also been attributed to the impotence of Congress; but I think their journals will justify me in the assertion that all the states, excepting two, had passed laws to enable Congress to regulate commerce, and that those two were not indisposed to vest that power.

The conduct of the king of Great Britain, with respect to the western posts, has also been urged as the result of the inefficiency of our government; but, however organized our general government might be, I should doubt whether it was either prudent or expedient to risk a war, which would expose our coast to depredation by an enemy, against whose attacks in that point we must remain defenceless, until we can create a fleet to repel their invasions. Will any government enable us to do this in a few years? I am convinced it will not.

That we have to encounter embarrassments, and are distressed for want of money, is undoubted; but causes which could not be controlled by any system of government, have principally contributed to embarrass and distress us. On the termination of war, which operated to exhaust our resources, we launched into every species of extravagance, and imported European goods to an amount far beyond our ability to pay. The difficulties which arose from this and several other causes, equally uninfluenced by the system of government, were without hesitation attributed to its want of energy.

Sir, the instance adduced from the history of the Jewish theocracy evinces that there are certain situations in communities which will unavoidably lead to results similar to those we experience. The Israelites were unsuccessful in war; they were sometimes defeated by their enemies: instead of reflecting that these calamities were occasioned by their sins, they sought relief in the appointment of a king, in imitation of their neighbors.

The united Dutch provinces have been instanced as possessing a government parallel to the existing Confederation; but I believe it will be discovered that they were never organized, as a general government, on principles so well calculated to promote the attainment of national objects as that of the United States. They were obliged to resort to subordinate societies to collect the sense of the state, before the deputies were authorized to assent to any public meas

ure binding on their states. Sir William Temple relates that an important measure was prevented from taking place by the dissent of a single town, till one of its citizens was accommodated with a commission.

The Germanic confederacy consists of a heterogeneous mass of powerful princes, petty despots, and republics, differently organized, divided by religious jealousies, and existing only in its forms by the pressure of the great controlling powers of the emperor. I know not that history furnishes an example of a confederated republic coercing the states composing it by the mild influence of laws operating on the individuals of those states. This, therefore, I suppose to be a new experiment in politics; and, as we cannot always accurately ascertain the results of political measures, and as reasoning on them has been frequently found fallacious, we should not too confidently predict those to be produced by the new system.

The dangers to which we shall be exposed by a dissolution of the Union, have been represented; but, however much I may wish to preserve the Union, apprehensions of its dissolution ought not to induce us to submit to any measure which may involve in its consequences the loss of civil liberty. Conquest can do no more, in the state of civilization, than to subject us to be ruled by persons in whose appointment we have no agency. This, sir, is the worst we can apprehend at all events; and, as I suppose a government so organized, and possessing the powers mentioned in the proposed Constitution, will unavoidably terminate in the depriving us of that invaluable privilege, I am content to risk a probable, but, on this occasion, a mere possible evil, to avoid a certain one. But if a dissolution of the Union should unfortunately ensue, what have we to apprehend? We are connected, both by interest and affection, with the New England States; we harbor no animosities against each other; we have no interfering territorial claims; our manners are nearly similar, and they are daily assimilating, and mutual advantages will probably prompt to mutual concessions, to enable us to form a union with them. I, however, contemplate the idea of a possible dissolution with pain, and I make these remarks with the most sincere reluctance, only in answer to those which were offered by the honorable gentlemen from New York.

Sir, I have formerly had occasion to declare to the public my apprehensions that a consolidated government, partaking in a great degree of republican principles, and which had in object the control of the inhabitants of the extensive territory of the United States, by its sole operations could not preserve the essential rights and liberties of the people. I have not as yet discovered any reason to change that sentiment; on the contrary, reflection has given it additional force. But I stand here the representative of others, and, as far as I can ascertain the views of my constituents, it is my duty to promote them with the utmost assiduity; and in no one pursuit can I be better supported by the almost unanimous opinion of my fellow-citizens in the county I have the honor to represent, than in proposing amendments to the Constitution which is now the subject of our deliberations, as the mode of introducing amendments was the only point of difference. Influenced by these considerations, every amendment which I am convinced will have a tendency to lessen the danger of invasion of civil liberty by the general government, will receive my sincere approbation. But none which can, in the remotest degree, originate in local views, will meet my concurrence; and I trust an intention will not be attributed to me to preserve the consequence of official state establishments.

Sir, when motives of this kind are supposed to actuate men in office, by persons who have imbibed prejudices from a want of information—when they originate from an illiberality of sentiment which would disgrace the worst cause—every man who feels the imputation, while he laments the misguided zeal which aims, by the sacrifice of private feelings, to obtain a favorite object, will disregard the attempt, and consign it to merited oblivion. But when an honorable gentleman, distinguished for his liberal turn of thinking, who is possessed of one of the most lucrative offices of the state, deliberately gives his name to the public, as impliedly sanctioning the sentiment, silence must unavoidably be construed into a tacit confession of its justice. The committee will therefore indulge me in remarking that, if the operations of the general government will subvert those of the individual states, the interest of the state officers may be affected in some measure, otherwise their emoluments will remain undiminished—their consequence not so much im-

paired as not to compensate men of interested pursuits by the prospect of sharing the offices of the general government. Does this imputation only apply to the officers of this state? Are they more discerning in distinguishing their interest, or are they only capable of being warped by apprehensions of loss? In the neighboring states, the officers of government are among the warmest advocates of the new system; and even in this state they are perhaps more divided in sentiment than any other class of men whatsoever.

But, sir, I trust we shall divest ourselves, on this occasion, of every consideration of a private nature, and determine on the Constitution with caution and moderation.

Mr. R. R. LIVINGSTON rose to reply.

The CHANCELLOR, in explanation, said, it gave him pain to observe a meaning attributed to him which was totally foreign from his mind. He by no means had intended to insinuate that the opposition to the Constitution flowed from interested or improper motives. He knew that the officers of this state had taken different sides; he himself held a public station, and many of the officers of the several states were among its warmest advocates. He was sensible that every man in place felt, in a delicate degree, the dignity attached to his office. Far from aiming an improper suggestion of the previous or present disposition of any member, his only view was to express a hope, and at the same time caution, that, in the prosecution of this business, gentlemen might not suffer themselves to be influenced by partial views or private prejudices. For, said he, we sit here as simple citizens, and every species of official authority is lost in this equal assembly. But, sir, as the officers of government were selected from the mass of the people, with an expectation that they would be their wisest and best friends, it is to be hoped that, if this Constitution is proved to be a good one, and friendly to the liberties of the people, those men who are highest in office will be the most urgent to adopt, and most active to execute it. He begged leave to take notice of an observation which had just been made. He should notice it, because it tended to establish a new and singular opinion; that is, that, if a conditional power of coercion only was lodged in the government, the purposes of the union might be answered. The idea was, that Congress should make requisitions on the states, and, on their

non-compliance, the compulsory authority should be exercised on individuals. This idea includes an acknowledgment that the old Confederation is totally incompetent to federal purposes.

But let us view, said he, the operation of a system founded on such a principle. In the first place, the necessary revenue officers must be appointed. Congress will then send out the requisitions, and, on refusal or neglect, will resort to individual coercion. If the states punctually comply with the requisitions, an expensive establishment must be supported, without object or employment. If, on the contrary, they are delinquent, what an alarming image of disorder is presented to our view! A body of federal officers, in the heart of a state, acting in direct opposition to the declared sense of the legislature! Would not this be a source of eternal disorder? Would not a government, thus calculated to promote a spirit of civil dissension, be forever impracticable? Such a government must be attended with every delay, with every expense — must defeat itself, and be its own destruction.

The Hon. Mr. SMITH said, he conceived that the Constitution ought to be considered by paragraphs. An honorable gentleman yesterday had opened the debate with some general observations; another honorable gentleman had just answered him by general observations. He wished the Constitution to be examined by paragraphs. In going through it, he should offer his objections to such parts of it as he thought defective.

The first section of the first article was then read, and passed by without remark.

The second section being read,

Mr. SMITH again rose. He most heartily concurred in sentiment with the honorable gentleman who opened the debate, yesterday, that the discussion of the important question now before them ought to be entered on with a spirit of patriotism; with minds open to conviction; with a determination to form opinions only on the merits of the question, from those evidences which should appear in the course of the investigation.

How far the general observations made by the honorable gentleman accorded with these principles, he left to the house to determine.

It was not, he said, his intention to follow that gentleman through all his remarks. He should only observe that what had been advanced did not appear to apply to the subject under consideration.

He was as strongly impressed with the necessity of a union as any one could be. He would seek it with as much ardor. In the discussion of this question, he was disposed to make every reasonable concession, and, indeed, to sacrifice every thing for a union, except the liberties of his country, than which he could contemplate no greater misfortune. But he hoped we were not reduced to the necessity of sacrificing, or even endangering, our liberties, to preserve the Union. If that was the case, the alternative was dreadful. But he would not now say that the adoption of the Constitution would endanger our liberties; because that was the point to be debated, and the premises should be laid down previously to the drawing of any conclusion. He wished that all observations might be confined to this point, and that declamations and appeals to the passions might be omitted.

Why, said he, are we told of our weakness? of the defenceless condition of the southern parts of our state? of the exposed situation of our capital? of Long Island, surrounded by water, and exposed to the incursions of our neighbors in Connecticut? of Vermont having separated from us, and assumed the powers of a distinct government? and of the north-west parts of our state being in the hands of a foreign enemy? Why are we to be alarmed with apprehensions that the Eastern States are inimical, and disinclined to form alliances with us? He was sorry to find that such suspicions were entertained. He believed that no such disposition existed in the Eastern States. Surely it could not be supposed that those states would make war upon us for exercising the rights of freemen, deliberating and judging for ourselves, on a subject the most interesting that ever came before any assembly. If a war with our neighbors was to be the result of not acceding, there was no use in debating here; we had better receive their dictates, if we were unable to resist them. The defects of the old Confederation needed as little proof as the necessity of a union. But there was no proof in all this that the proposed Constitution was a good one. Defective as the old Confederation is, he said,

no one could deny but it was possible we might have a worse government. But the question was not whether the present Confederation be a bad one, but whether the proposed Constitution be a good one.

It had been observed, that no example of federal republic had succeeded. It was true that the ancient confederate republics were all destroyed; so were those which were now confederated; and all ancient governments, of every form, had shared the same fate. Holland had, no doubt, experienced many evils from the defects in her government; but, with all these defects, she yet existed: she had, under her confederacy, made a principal figure among the nations of Europe, and he believed few countries had experienced a greater share of internal peace and prosperity. The Germanic confederacy was not the most pertinent example to produce on this occasion. Among a number of absolute princes, who consider their subjects as their property, whose will is law, and to whose ambition there are no bounds, it was no difficult task to discover other causes from which the convulsions in that country rose, than the defects of their confederation. Whether a confederacy of states, under any form, be a practicable government, was a question to be discussed in the course of investigating the Constitution.

He was pleased that, thus early in debate, the honorable gentleman had himself shown that the intent of the Constitution was not a confederacy, but a reduction of all the states into a consolidated government. He hoped the gentleman would be complaisant enough to exchange names with those who disliked the Constitution, as it appeared from his own concessions, that they were federalists, and those who advocated it were anti-federalists. He begged leave, however, to remind the gentleman, that Montesquieu, with all the examples of modern and ancient republics in view, gives it as his opinion, that a confederated republic has all the internal advantages of a republic, with the external force of a monarchical government. He was happy to find an officer of such high rank recommending to the other officers of government, and to those who are members of the legislature, to be unbiased by any motives of interest or state importance. Fortunately for himself, he was out of the verge of temptation of this kind, not having the honor to

old any office under the state. But, then, he was exposed, a common with other gentlemen of the Convention, to another temptation, against which he thought it necessary that we should be equally guarded. If, said he, this Constitution is adopted, there will be a number of honorable and lucrative offices to be filled ; and we ought to be cautious lest an expectancy of some of them should influence us to adopt without due consideration.

We may wander, said he, in the fields of fancy without end, and gather flowers as we go. It may be entertaining, but it is of little service to the discovery of truth. We may, on one side, compare the scheme advocated by our opponents to *golden images, with feet part of iron and part of clay* ; and on the other, to *a beast dreadful and terrible, and strong exceedingly, having great iron teeth,—which devours, breaks in pieces, and stamps the residue with his feet* ; and after all, said he, we shall find that both these allusions are taken from the same *vision* ; and their true meaning must be discovered by sober reasoning.

He would agree with the honorable gentlemen that perfection in any system of government was not to be looked for. If that was the object, the debates on the one before them might soon be closed. But he would observe, that his observation applied, with equal force, against changing any system, especially against material and radical changes. Fickleness and inconstancy, he said, were characteristic of a free people ; and, in framing a constitution for them, it was, perhaps, the most difficult thing to correct this spirit, and guard against the evil effects of it. He was persuaded it could not be altogether prevented without destroying their freedom. It would be like, attempting to correct a small indisposition in the habit of the body, fixing the patient in a confirmed consumption. This fickle and inconstant spirit was the more dangerous in bringing about changes in the government. The instance that had been adduced by the gentleman from sacred history, was an example in point to prove this. The nation of Israel, having received a form of civil government from Heaven, enjoyed it for a considerable period ; but, at length, laboring under pressures which were brought upon them by their own misconduct and imprudence, instead of imputing their misfortunes to their true causes, and making a proper improvement of their calamities,

by a correction of their errors, they imputed them to a defect in their constitution; they rejected their divine Ruler, and asked Samuel to make them a king to judge them, like other nations. Samuel was grieved at their folly; but still, by the command of God, he hearkened to their voice, though not until he had solemnly declared unto them the manner in which the king should reign over them. "This (says Samuel) shall be the manner of the king that shall reign over you. He will take your sons, and appoint them for himself, for his chariots, and for his horsemen, and some shall run before his chariots; and he will appoint him captains over thousands, and captains over fifties, and will set them to ear his ground, and to reap his harvest, and to make his instruments of war, and instruments of his chariots. And he will take your daughters to be confectionaries, and to be cooks, and to be bakers. And he will take your fields, and your vineyards, and your olive-yards, even the best of them, and give them to his servants. And he will take the tenth of your seed, and of your vineyards, and give to his officers and to his servants, and he will take your men-servants, and your maid-servants, and your goodliest young men, and your asses, and put them to his work. He will take the tenth of your sheep; and ye shall be his servants. And ye shall cry out in that day, because of your king which ye have chosen you; and the Lord will not hear you in that day!" How far this was applicable to the subject, he would not now say. It could be better judged of when they had gone through it. On the whole, he wished to take up this matter with candor and deliberation.

He would now proceed to state his objections to the clause just read, (section 2, of article 1, clause 3.) His objections were comprised under three heads: 1st, the rule of apportionment is unjust; 2d, there is no precise number fixed on, below which the house shall not be reduced; 3d, it is inadequate. In the first place, the rule of apportionment of the representatives is to be according to the whole number of the white inhabitants; with three fifths of all others; that is, in plain English, each state is to send representatives in proportion to the number of freemen, and three fifths of the slaves it contains. He could not see any rule by which slaves were to be included in the ratio of representation. The principle of a representation being that

every free agent should be concerned in governing himself, it was absurd in giving that power to a man who could not exercise it. Slaves have no will of their own. The very operation of it was to give certain privileges to those people who were so wicked as to keep slaves. He knew it would be admitted that this rule of apportionment was founded on unjust principles, but that it was the result of accommodation; which, he supposed, we should be under the necessity of admitting, if we meant to be in union with the Southern States, though utterly repugnant to his feelings. In the second place, the number was not fixed by the Constitution, but left at the discretion of the legislature; perhaps he was mistaken; it was his wish to be informed. He understood, from the Constitution, that sixty-five members were to compose the House of Representatives for three years; that, after that time, the census was to be taken, and the numbers to be ascertained by the legislature, on the following principles: 1st, they shall be apportioned to the respective states according to numbers; 2d, each state shall have one, at least; 3d, they shall never exceed one to every thirty thousand. If this was the case, the first Congress that met might reduce the number below what it now is—a power inconsistent with every principle of a free government, to leave it to the discretion of the rulers to determine the number of representatives of the people. There was no kind of security except in the integrity of the men who were intrusted; and if you have no other security, it is idle to contend about constitutions. In the third place, supposing Congress should declare that there should be one representative for every thirty thousand of the people, in his opinion, it would be incompetent to the great purposes of representation. It was, he said, the fundamental principle of a free government, that the people should make the laws by which they were to be governed. He who is controlled by another is a slave; and that government which is directed by the will of any one, or a few, or any number less than is the will of the community, is a government for slaves.

The new point was, How was the will of the community to be expressed? It was not possible for them to come together; the multitude would be too great: in order, therefore, to provide against this inconvenience, the scheme of representation had been adopted, by which the people deputed

others to represent them. Individuals entering into society became one body, and that body ought to be animated by one mind; and he conceived that every form of government should have that complexion. It was true, notwithstanding all the experience we had from others, it had appeared that the experiment of representation had been fairly tried; there was something like it in the ancient republics, in which, being of small extent, the people could easily meet together, though, instead of deliberating, they only considered of those things which were submitted to them by their magistrates. In Great Britain, representation had been carried much further than in any government we knew of, except our own; but in that country it now had only a name. America was the only country in which the first fair opportunity had been offered. When we were colonies, our representation was better than any that was then known: since the revolution, we had advanced still nearer to perfection. He considered it as an object, of all others the most important, to have it fixed on its true principle; yet he was convinced that it was impracticable to have such a representation in a consolidated government. However, said he, we may approach a great way towards perfection by increasing the representation and limiting the powers of Congress. He considered that the great interests and liberties of the people could only be secured by the state governments. He admitted that, if the new government was only confined to great national objects, it would be less exceptionable; but it extended to every thing dear to human nature. That this was the case, would be proved without any long chain of reasoning; for that power which had both the purse and the sword had the government of the whole country, and might extend its powers to any and to every object. He had already observed that, by the true doctrine of representation, this principle was established—that the representative must be chosen by the free will of the majority of his constituents. It therefore followed that the representative should be chosen from small districts. This being admitted, he would ask, Could 65 men for 3,000,000, or 1 for 30,000, be chosen in this manner? Would they be possessed of the requisite information to make happy the great number of souls that were spread over this extensive country? There was another objection to the clause: if great affairs of government were trusted to

few men, they would be more liable to corruption. Corruption, he knew, was unfashionable amongst us, but he supposed that Americans were like other men; and though they had hitherto displayed great virtues, still they were men; and therefore such steps should be taken as to prevent the possibility of corruption. We were now in that stage of society in which we could deliberate with freedom; how long it might continue, God only knew! Twenty years hence, perhaps, these maxims might become unfashionable. We already hear, said he, in all parts of the country, gentlemen ridiculing that spirit of patriotism, and love of liberty, which carried us through all our difficulties in times of danger. When patriotism was already nearly hooted out of society, ought we not to take some precautions against the progress of corruption?

He had one more observation to make, to show that the representation was insufficient. Government, he said, must rest, for its execution, on the good opinion of the people; for, if it was made heaven, and had not the confidence of the people, it could not be executed; that this was proved by the example given by the gentleman of the Jewish theocracy. It must have a good setting out, or the instant it takes place, there is an end of liberty. He believed that the inefficacy of the old Confederation had arisen from that want of confidence; and this caused, in a great degree, by the continual declamation of gentlemen of importance against it from one end of the continent to the other, who had frequently compared it to a rope of sand. It had pervaded every class of citizens; and their misfortunes, the consequences of idleness and extravagance, were attributed to the defects of that system. At the close of the war, our country had been left in distress; and it was impossible that any government on earth could immediately retrieve it; it must be time and industry alone that could effect it. He said, he would pursue these observations no further at present, — and concluded with making the following motion: —

“*Resolved*, That it is proper that the number of representatives be fixed at the rate of one for every twenty thousand inhabitants, to be ascertained on the principles mentioned in the 2d section of the 1st article of the Constitution, until they amount to three hundred; after which they shall be apportioned among the states, in proportion to the num-

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f inhabitants of the states respectively; and that, be-
the first enumeration shall be made, the several states
be entitled to choose double the number of representa-
s, for that purpose mentioned in the Constitution.”
The Hon. Mr. HAMILTON then rose. Mr. Chairman,
an honorable member who spoke yesterday went into an
planation of a variety of circumstances, to prove the expe-
ency of a firm union. At the same time, he described
necessity of a firm union. In doing this, he advanced a
the great advantages which this state, in particular, receives
from the confederacy, and its peculiar weaknesses when ab-
stracted from the Union. In doing this, he advanced a
variety of arguments, which deserve serious consideration.
Gentlemen have this day come forward to answer him. He
has been treated as having wandered in the flowery fields of
fancy; and attempts have been made to take off from the
minds of the committee that sober impression which might
be expected from his arguments. I trust, sir, that observa-
tions of this kind are not thrown out to cast a light air or
this important subject, or to give any personal bias on the
great question before us. I will not agree with gentlemen
who trifle with the weaknesses of our country, and suppose
that they are enumerated to answer a party purpose, and to
terrify with ideal dangers. No. I believe these weaknesses
to be real, and pregnant with destruction. Yet, however
weak our country may be, I hope we never shall sacrifice
our liberties. If, therefore, on a full and candid discussion,
the proposed system shall appear to have that tendency, for
God's sake, let us reject it! But let us not mistake words
for things, nor accept doubtful surmises as the evidence of
truth. Let us consider the Constitution calmly and dispa-
sionately, and attend to those things only which merit
consideration.

No arguments drawn from embarrassment or inconveni-
ought to prevail upon us to adopt a system of governme-
radically bad; yet it is proper that these arguments, and
others, should be brought into view. In doing this, yes-
day, it was necessary to reflect upon our situation; to dis-
upon the imbecility of our union; and to consider what
we, as a state, could stand alone. Although I am persua-
this Convention will be resolved to adopt nothing that is
yet I think every prudent man will consider the merits

an in connection with the circumstances of our country, and that a rejection of the Constitution may involve most fatal consequences. I make these remarks to show that, though we ought not to be actuated by unreasonable fear, yet we ought to be prudent.

This day, sir, one gentleman has attempted to answer the arguments advanced by my honorable friend; another has treated him as having wandered from the subject. This being the case, I trust I shall be indulged in reviewing the remarks that have been made.

Sir, it appears to me extraordinary, that, while gentlemen on one breath acknowledge that the old Confederation requires many material amendments, they should in the next breath say that its defects have been the cause of our political weakness, and the consequent calamities of our country. I cannot but infer from this, that there is still some lurking favorite imagination, that this system, with correctness, might become a safe and permanent one. It is proper that we should examine this matter. We contend that the radical defect in the old Confederation is, that the laws of the Union apply only to states in their corporate capacity. Has not every man who has been in our legislature experienced the truth of this position? It is inseparable from the disposition of the states, who have a constitutional power of resistance, to examine the merits of a law. This has ever been the case with the federal requisitions. In this examination, not being furnished with those lights which directed the deliberations of the general government, and incapable of embracing the general interests of the Union, the states have almost uniformly weighed the requisitions by their own local interests, and have only executed them so far as answered their particular convenience or advantage. Hence there have ever been thirteen different bodies to judge of the measures of Congress, and the operations of government have been distracted by their taking different courses. Those which were to be benefited have complied with the requisitions; others have totally disregarded them. Have not all of us been witnesses to the unhappy embarrassments which resulted from these proceedings? Even during the late war, while the pressure of common danger connected strongly the bonds of our union, and incited to vigorous exertion, we have felt many distressing effects of the important system. How have

we seen this state, though most exposed to the calamities of the war, complying, in an unexampled manner, with the federal requisitions, and compelled by the delinquency of others to bear most unusual burdens! Of this truth we have the most solemn proof on our records. In 1779 and '80, when the state, from the ravages of war, and from her great exertions to resist them, became weak, distressed, and forlorn, every man avowed the principle which we now contend for—that our misfortunes, in a great degree, proceeded from the want of vigor in the Continental government. These were our sentiments when we did not speculate, but feel. We saw our weakness, and found ourselves its victims. Let us reflect that this may again, in all probability, be our situation. This is a weak state, and its relative state is dangerous. Your capital is accessible by land, and by sea is exposed to every daring invader; and on the north-west you are open to the inroads of a powerful foreign nation. Indeed, this state, from its situation, will, in time of war, probably be the theatre of its operations.

Gentlemen have said that the non-compliance of the states had been occasioned by their sufferings. This may in part be true. But has this state been delinquent? Amidst all our distresses, *we* have fully complied. If New York could comply wholly with the requisitions, is it not to be supposed that the other states could in part comply? Certainly every state in the Union might have executed them in some degree. But New Hampshire, which has not suffered at all, is totally delinquent. North Carolina is totally delinquent. Many others have contributed in a very small proportion. And Pennsylvania and New York are the only states which have perfectly discharged their federal duty.

From the delinquency of those states which have suffered little by the war, we naturally conclude, that they have made no efforts; and a knowledge of human nature will teach us that their ease and security have been a principal cause of their want of exertion. While danger is distant, its impression is weak; and while it affects only our neighbors, we have few motives to provide against it. Sir, if we have national objects to pursue, we must have national revenues. If you make requisitions, and they are not complied with, what is to be done? It has been observed, to coerce the states is one of the maddest projects that was ever devised. A

failure of compliance will never be confined to a single state. This being the case, can we suppose it wise to hazard a civil war? Suppose Massachusetts, or any large state, should refuse, and Congress should attempt to compel them, would they not have influence to procure assistance, especially from those states which are in the same situation as themselves? What picture does this idea present to our view? A complying state at war with a non-complying state; Congress marching the troops of one state into the bosom of another; this state collecting auxiliaries, and forming, perhaps, a majority against its federal head. Here is a nation at war with itself. Can any reasonable man be well disposed towards a government which makes war and carnage the only means of supporting itself—a government that can exist only by the sword? Every such war must involve the innocent with the guilty. This single consideration should be sufficient to dispose every peaceable citizen against such a government.

But can we believe that one state will ever suffer itself to be used as an instrument of coercion? The thing is a dream; it is impossible. Then we are brought to this dilemma—either a federal standing army is to enforce the requisitions, or the federal treasury is left without supplies, and the government without support. What, sir, is the cure for this great evil? Nothing, but to enable the national laws to operate on individuals, in the same manner as those of the states do. This is the true reasoning upon the subject, sir. The gentlemen appear to acknowledge its force; and yet, while they yield to the principle, they seem to fear its application to the government.

What, then, shall we do? Shall we take the old Confederation, as the basis of a new system? Can this be the object of the gentlemen? Certainly not. Will any man, who entertains a wish for the safety of his country, trust the sword and the purse with a single assembly organized on principles so defective—so rotten? Though we might give to such a government certain powers with safety, yet to give them the full and unlimited powers of taxation and the national forces, would be to establish a despotism; the definition of which is, a government in which all power is concentrated in a single body. To take the old Confederation, and fashion it upon these principles, would be establishing a power which

would destroy the liberties of the people. These considerations show clearly that a government totally different must be instituted. They had weight in the Convention who formed the new system. It was seen that the necessary powers were too great to be trusted to a single body; they therefore formed two branches, and divided the powers, that each might be a check upon the other. This was the result of their wisdom; and I presume that every reasonable man will agree to it. The more this subject is explained, the more clear and convincing it will appear to every member of this body. The fundamental principle of the old Confederation is defective; we must totally eradicate and discard this principle before we can expect an efficient government. The gentlemen who have spoken to-day have taken up the subject of the ancient confederacies; but their view of them has been extremely partial and erroneous. The fact is, the same false and impracticable principle ran through the ancient governments. The first of these governments that we read of, was the Amphictyonic confederacy. The council which managed the affairs of this league possessed powers of a similar complexion to those of our present Congress. The same feeble mode of legislation in the head, and the same power of resistance in the members, prevailed. When a requisition was made, it rarely met a compliance; and a civil war was the consequence. Those that were attacked called in foreign aid to protect them; and the ambitious Philip, under the mask of an ally to one, invaded the liberties of each, and finally subverted the whole.

The operation of this principle appears in the same light in the Dutch republics. They have been obliged to levy taxes by an armed force. In this confederacy, one large province, by its superior wealth and influence, is commonly a match for all the rest; and when they do not comply, the province of Holland is obliged to compel them. It is observed, that the United Provinces have existed a long time; but they have been constantly the sport of their neighbors, and have been supported only by the external pressure of the surrounding powers. The policy of Europe, not the policy of their government, has saved them from dissolution. Besides, the powers of the stadtholder have given energy to the operations of this government, which is not to be found in ours. This prince has a vast personal influence; he has

dependent revenues ; he commands an army of forty thousand men.

The German confederacy has also been a perpetual source of wars. They have a diet, like our Congress, who have authority to call for supplies. These calls are never obeyed ; and in time of war, the imperial army never takes the field until the enemy are returning from it. The emperor's Austrian dominions, in which he is an absolute prince, alone enable him to make head against the common foe. The members of this confederacy are ever divided and opposed to each other. The king of Prussia is a member ; yet he has been constantly in opposition to the emperor. Is this a desirable government ?

I might go more particularly into the discussion of examples, and show that, wherever this fatal principle has prevailed, even as far back as the Lycian and Achæan leagues, as well as the Amphictyonic confederacy, it has proved the destruction of the government. But I think observations of this kind might have been spared. Had they not been interposed by others, I should not have taken up so much of the time of the committee. No inference can be drawn from these examples, that republics cannot exist : we only intend that they have hitherto been founded on false principles. We have shown how they have been conducted, and how they have been destroyed. Weakness in the head has produced resistance in the members ; this has been the immediate parent of civil war : auxiliary force has been invited ; and foreign power has annihilated their liberties and name. Thus Philip subverted the Amphictyonic, and Rome the Achæan republic.

We shall do well, sir, not to deceive ourselves with the favorable events of the late war. Common danger prevented the operation of the ruinous principle, in its full extent ; but, since the peace, we have experienced the evils ; we have felt the poison of the system in its unmingled purity.

Without dwelling any longer on this subject, I shall proceed to the question immediately before the committee.

In order that the committee may understand clearly the principles on which the general Convention acted, I think it necessary to explain some preliminary circumstances. Sir, the natural situation of this country seems to divide its interests into different classes. There are navigating and

non-navigating states. The Northern are properly navigating states: the Southern appear to possess neither the means nor the spirit of navigation. This difference of situation naturally produces a dissimilarity of interests and views respecting foreign commerce. It was the interest of the Northern States that there should be no restraints on their navigation, and they should have full power, by a majority in Congress, to make commercial regulations in favor of their own, and in restraint of the navigation of foreigners. The Southern States wish to impose a restraint on the Northern, by requiring that two thirds in Congress should be requisite to pass an act in regulation of commerce. They were apprehensive that the restraints of a navigation law would discourage foreigners, and, by obliging them to employ the shipping of the Northern States, would probably enhance their freight. This being the case, they insisted strenuously on having this provision ingrafted in the Constitution; and the Northern States were as anxious in opposing it. On the other hand, the small states, seeing themselves embraced by the Confederation upon equal terms, wished to retain the advantages which they already possessed. The large states, on the contrary, thought it improper that Rhode Island and Delaware should enjoy an equal suffrage with themselves. From these sources a delicate and difficult contest arose. It became necessary, therefore, to compromise, or the Convention must have dissolved without effecting any thing. Would it have been wise and prudent in that body, in this critical situation, to have deserted their country? No. Every man who hears me, every wise man in the United States, would have condemned them. The Convention were obliged to appoint a committee for accommodation. In this committee, the arrangement was formed as it now stands, and their report was accepted. It was a delicate point, and it was necessary that all parties should be indulged. Gentlemen will see that, if there had not been a unanimity, nothing could have been done; for the Convention had no power to establish, but only to recommend, a government. Any other system would have been impracticable. Let a convention be called to-morrow; let them meet twenty times, — nay, twenty thousand times; they will have the same difficulties to encounter, the same clashing interests to reconcile.

But, dismissing these reflections, let us consider how far the arrangement is in itself entitled to the approbation of its body. We will examine it upon its own merits.

The first thing objected to is that clause which allows a representation for three fifths of the *negroes*. Much has been said of the impropriety of representing men who have no will of their own. Whether this be reasoning or declamation, I will not presume to say. It is the unfortunate situation of the Southern States to have a great part of their population, as well as property, in blacks. The regulation complained of was one result of the spirit of accommodation which governed the Convention; and without this indulgence no union could possibly have been formed. But, sir, considering some peculiar advantages which we derive from them, it is entirely just that they should be gratified. The Southern States possess certain staples, — tobacco, rice, indigo, &c., — which must be capital objects in treaties of commerce with foreign nations; and the advantages which they necessarily procure in those treaties will be felt throughout all the states. But the justice of this plan will appear from another view. The best writers on government have held that representation should be compounded of persons and property. This rule has been adopted, as far as it could be, in the constitution of New York. It will, however, by this means be admitted that the slaves are considered altogether as property. They are men, though degraded to the condition of slavery. They are persons known to the municipal laws of the states which they inhabit, as well as to the laws of nature. But representation and taxation go together, and one uniform rule ought to apply to both. Would it be just to compute these slaves in the assessment taxes, and discard them from the estimate in the apportionment of representatives? Would it be just to impose a singular burden, without conferring some adequate advantage?

Another circumstance ought to be considered. The rule we have been speaking of is a general rule, and applies to all the states. Now, you have a great number of people in your state, which are not represented at all, and have no voice in your government. These will be included in the numeration — not two fifths, nor three fifths, but the whole. This proves that the advantages of the plan are not con-

fined to the Southern States, but extend to other parts of the Union.

I now proceed to consider the objection with regard to the number of representatives, as it now stands. I am persuaded the system, in this respect, stands on a better footing than the gentlemen imagine.

It has been asserted that it will be in the power of Congress to reduce the number. I acknowledge that there are no direct words of prohibition, but contend that the true and genuine construction of the clause gives Congress no power whatever to reduce the representation below the number as it now stands. Although they may limit, they can never diminish the number. One representative for every thirty thousand inhabitants is fixed as the standard of increase; till, by the natural course of population, it shall become necessary to limit the ratio. Probably, at present, were this standard to be immediately applied, the representation would considerably exceed sixty-five. In three years, it would exceed one hundred. If I understand the gentlemen, they contend that the number may be enlarged, or may not. I admit that this is in the discretion of Congress; and I submit to the committee whether it be not necessary and proper. Still, I insist that an immediate limitation is not probable, nor was it in the contemplation of the Convention. But, sir, who will presume to say to what precise point the representation ought to be increased? This is a matter of opinion, and opinions are vastly different upon the subject. A proof of this is drawn from the representations in the state legislatures. In Massachusetts, the Assembly consists of about three hundred; in South Carolina, of nearly one hundred; in New York, there are sixty-five. It is observed generally that the number ought to be large; let the gentlemen produce their criterion. I confess it is difficult for me to say what number may be said to be sufficiently large. On one hand, it ought to be considered that a small number will act with more facility, system, and decision; on the other, that a large one may enhance the difficulty of corruption. The Congress is to consist, at first, of ninety-one members. This, to a reasonable man, may appear as near the proper medium as any number whatever, at least for the present. There is one source of increase, also, which does not depend upon any constructions of the Constitution; it is the creation of

w states. Vermont, Kentucky, and Franklin,* will probably become independent. New members of the Union will be formed from the unsettled tracts of western territory.

These must be represented, and will all contribute to swell the federal legislature. If the whole number in the United States be, at present, three millions, as is commonly supposed, according to the ratio of one for thirty thousand, we shall have, on the first census, a hundred representatives.

In ten years, thirty more will be added; and in twenty-five years, the number will be double. Then, sir, we shall have two hundred, if the increase goes on in the same proportion.

The Convention of Massachusetts, who made the same objections, have fixed upon this number as the point to which they chose to limit the representation. But can we pronounce, with certainty, that it will not be expedient to go beyond this number? We cannot. Experience alone must terminate. This matter may, with more safety, be left to the discretion of the legislature, as it will be the interest of the large and increasing states of Massachusetts, New York, Pennsylvania, &c., to augment the representation. Only Connecticut, Rhode Island, Delaware, and Maryland, can be interested in limiting it. We may, therefore, safely calculate upon a growing representation, according to the advance of population, and the circumstances of the country.

The state governments possess inherent advantages, which will ever give them an influence and ascendancy over the national government, and will forever preclude the possibility of federal encroachments. That their liberties, indeed, can be subverted by the federal head, is repugnant to every rule of political calculation. Is not this arrangement, then, sir, a most wise and prudent one? Is not the present presentation fully adequate to our present exigencies, and sufficient to answer all the purposes of the Union? I am persuaded that an examination of the objects of the federal government will afford a conclusive answer.

Many other observations might be made on this subject, but I cannot now pursue them; for I feel myself not a little exhausted. I beg leave, therefore, to waive, for the present, any further discussion of the question.

SATURDAY, *June 21*, 1788.—Convention met pursuant adjournment.

* Now Tennessee.

The Hon. Mr. WILLIAMS rose, and addressed the chair. We are now, sir, said he, to investigate and decide upon a Constitution, in which not only the present members of the community are deeply interested, but upon which the happiness or misery of generations yet unborn is, in a great measure, suspended. I therefore hope for a wise and prudent determination. I believe that this country has never before seen such a critical period in political affairs. We have felt the feebleness of those ties by which the states are held together, and the want of that energy which is necessary to manage our general concerns. Various are the expedients which have been proposed to remedy these evils ; but they have been proposed without effect ; though I am persuaded that, if the Confederation had been attended to as its value justly merited, and proper attention paid to a few necessary amendments, it might have carried us on for a series of years, and probably have been in as great estimation with succeeding ages as it was in our long and painful war, notwithstanding the frightful picture that has been drawn of our situation, and the imputation of all our difficulties to the want of an energetic government. Indeed, sir, it appears to me that many of our present distresses flow from a source very different from the defects in the Confederation. Unhappily for us, immediately after our extrication from a cruel and unnatural war, luxury and dissipation overran the country, banishing all that economy, frugality, and industry, which had been exhibited during the war.

Sir, if we were to reassume all our old habits, we might expect to prosper. Let us, then, abandon all those foreign commodities which have hitherto deluged our country, which have loaded us with debt, and which, if continued, will forever involve us in difficulties. How many thousands are daily wearing the manufactures of Europe, when, by a little industry and frugality, they might wear those of their own country ! One may venture to say, sir, that the greatest part of the goods are manufactured in Europe by persons who support themselves by our extravagance. And can we believe a government ever so well formed can relieve us from these evils ? What dissipation is there from the immoderate use of spirits ! Is it not notorious that men cannot be hired, in time of harvest, without giving them, on an average, a pint of rum per day ? so that, on the lowest cal-

ulation, every twentieth part of the grain is expended on that article; and so, in proportion, all the farmer's produce. And what is worse, the disposition of eight tenths of the commonalty is such, that, if they can get credit, they will purchase unnecessary articles, even to the amount of their crop, before it becomes merchantable. And therefore it is evident that the best government ever devised, without economy and frugality, will leave us in a situation no better than the present.

Sir, the enormous expense of the article of tea will amount, in two years, to our whole foreign debt. Much more might be said on the subject; but I fear I have trespassed on your patience already. The time of the committee would not have been so long taken up, had there not appeared a propriety in showing that all our present difficulties are not to be attributed to the defects in the Confederation; and, were the real truth known, part of its defects have been used as an instrument to make way for the proposed system; and whether or not it is calculated for greater emoluments and more placemen the committee will determine. However, from what has been said, and the vote agreed on for our proceedings, it appears probable that the system of government under consideration is preferred before the Confederation. This being the case, let us examine whether it be calculated to preserve the invaluable blessings of liberty, and secure the inestimable rights of mankind. If it be so, let us adopt it. But if it be found to contain principles that will lead to the subversion of liberty,—if it tends to establish a despotism, or, what is worse, a tyrannical aristocracy,—let us insist upon the necessary alterations and amendments.

Momentous is the question, and we are called upon by every motive to examine it well, and make up a wise and candid judgment.

In forming a constitution for a free country like this, the greatest care should be taken to define its powers, and guard against an abuse of authority. The constitution should be so formed as not to swallow up the state governments: the general government ought to be confined to certain national objects; and the states should retain such powers as concern their own internal police. We should

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consider whether or not this system is so formed, as, directly or indirectly, to annihilate the state governments. If so, care should be taken to check it in such a manner as to prevent this effect. Now, sir, with respect to the clause before us, I agree with the gentlemen from Albany and Duchess, who spoke yesterday. The number of representatives is, in my opinion, too small to resist corruption. Sir, how guarded is our state Constitution on this head! The number of the Senate and House of Representatives proposed in the Constitution does not surpass those of our state. However great the disparity, when compared with the aggregation of the United States! The history of representation in England, from which we have taken our model, is briefly this: Before the institution of legislating by deputies, the whole free part of the community usually met for that purpose: when this became impracticable by increase of numbers, the people were divided into districts, from each of which was sent a number of deputies, for a complete representation of the various orders of the citizens within them. Can it be supposed that six men can be a complete representation of the various orders of the people of this state?

I conceive, too, that biennial elections are a departure from the true principles of democracy. A well-digested democracy has advantages over all other forms of government. It affords to many the opportunity of being advanced, and creates that desire of public promotion, and ardent affection for the public weal, which are so beneficial to our country. It was the opinion of the great Sidney and Montesquieu that annual elections are productive of this effect. But as there are more important defects in the proposed Constitution, I shall desist making any further observations this time.

In order to convince gentlemen it is my sincere intention to accede to this system, when properly amended, I give as my opinion that it will be best for gentlemen to conform themselves to certain points which are defective.

Before I conclude, I would only mention, that with one hand, I wish those endowed with a spirit of moderation through the whole debate, to give way to small matters on the other hand, not to be intimidated by imaginary

ers; for to say that a bad government must be established for fear of anarchy, is, in reality, saying that we must kill ourselves for fear of dying.

Mr. M. SMITH. I had the honor, yesterday, of submitting an amendment to the clause under consideration, with some observations in support of it. I hope I shall be indulged in making some additional remarks in reply to what has been offered by the honorable gentleman from New York.

He has taken up much time in endeavoring to prove that the great defect in the old Confederation was, that it operated upon states instead of individuals. It is needless to dispute concerning points on which we do not disagree. It is admitted that the powers of the general government ought to operate upon individuals to a certain degree. How far the powers should extend, and in what cases to individuals, is the question.

As the different parts of the system will come into view in the course of our investigation, an opportunity will be afforded to consider this question. I wish, at present, to confine myself to the subject immediately under the consideration of the committee. I shall make no reply to the arguments offered by the honorable gentleman to justify the rule of apportionment fixed by this clause; for, though I am confident they might be easily refuted, yet I am persuaded we must yield this point, in accommodation to the Southern states. The amendment therefore proposes no alteration to the clause in this respect.

The honorable gentleman says, that the clause, by obvious construction, fixes the representation. I wish not to torture words or sentences. I perceive no such obvious construction.

I see clearly that, on one hand, the representatives cannot exceed one for thirty thousand inhabitants; and, on the other, that whatever larger number of inhabitants may be taken for the rule of apportionment, each state shall be entitled to send one representative. Every thing else appears to me in the discretion of the legislature. If there be any other limitation, it is certainly implied. Matters of moment should not be left to doubtful construction. It is urged that the number of representatives will be fixed at one for thirty thousand, because it will be the interest of the larger states to do it. I cannot discern the force of this argument

To me it appears clear, that the relative weight of influence of the different states will be the same, with the number of representatives at sixty-five as at six hundred, and that of the individual members greater; for each member's share of power will decrease as the number of the House of Representatives increases. If, therefore, this maxim be true, that men are unwilling to relinquish powers which they once possess, we are not to expect the House of Representatives will be inclined to enlarge the numbers. The same motive will operate to influence the President and Senate to oppose the increase of the number of representatives; for, in proportion as the House of Representatives is augmented, they will feel their own power diminished. It is, therefore, of the highest importance that a suitable number of representatives should be established by the Constitution.

It has been observed, by an honorable member, that the Eastern States insisted upon a small representation, on the principles of economy. This argument must have no weight in the mind of a considerate person. The difference of expense, between supporting a House of Representatives sufficiently numerous, and the present proposed one, would be twenty or thirty thousand dollars per annum. The man who would seriously object to this expense, to secure his liberties, does not deserve to enjoy them. Besides, by increasing the number of representatives, we open a door for the admission of the substantial yeomanry of our country, who, being possessed of the habits of economy, will be cautious of imprudent expenditures, by which means a greater saving will be made of public money than is sufficient to support them. A reduction of the numbers of the state legislatures might also be made, by which means there might be a saving of expense much more than sufficient for the purpose of supporting the general legislature; for as, under this system, all the powers of legislation, relating to our general concerns, are vested in the general government, the powers of the state legislatures will be so curtailed as to render it less necessary to have them so numerous as they now are.

But an honorable gentleman has observed, that it is a problem that cannot be solved, what the proper number is which ought to compose the House of Representatives, and calls upon me to fix the number. I admit that this is a question that will not admit of a solution with mathematics.

tainty; few political questions will; yet we may determine with certainty that certain numbers are too small or too large. We may be sure that ten is too small, and a thousand too large a number. Every one will allow that the first number is too small to possess the sentiments, be influenced by the interests of the people, or secure against corruption; a thousand would be too numerous to be capable of deliberating.

To determine whether the number of representatives provided by this Constitution is sufficient, it is proper to examine the qualifications which this house ought to possess, in order to exercise their power discreetly for the happiness of the people. The idea that naturally suggests itself to our minds, when we speak of representatives, is, that they resemble those they represent. They should be a true picture of the people, possess a knowledge of their circumstances and their wants, sympathize in all their distresses, and be disposed to seek their true interests. The knowledge necessary for the representative of a free people not only comprehends extensive political and commercial information, but as is acquired by men of refined education, who have been able to attain to high degrees of improvement, but it should also comprehend that kind of acquaintance with the common concerns and occupations of the people, which men of the middling class of life are, in general, more competent than those of a superior class. To understand the true commercial interests of a country, not only requires just ideas of the general commerce of the world, but also, and principally, a knowledge of the productions of your own country, of their value, what your soil is capable of producing, the nature of your manufactures, and the capacity of the country to increase both. To exercise the power of laying taxes, duties, and excises, with discretion, requires something more than an acquaintance with the abstruse parts of the system of finance. It calls for a knowledge of the circumstances and ability of the people in general—a discernment how the burdens imposed will bear upon the different classes.

From these observations results this conclusion—that the number of representatives should be so large, as that, while it embraces the men of the first class, it should admit those of the middling class of life. I am convinced that this gov-

ernment is so constituted that the representatives will generally be composed of the first class in the community, which I shall distinguish by the name of the *natural aristocracy* of the country. I do not mean to give offence by using this term. I am sensible this idea is treated by many gentlemen as chimerical. I shall be asked what is meant by the *natural aristocracy*, and told that no such distinction of classes of men exists among us. It is true, it is our singular felicity that we have no legal or hereditary distinctions of this kind; but still there are real differences. Every society naturally divides itself into classes. The Author of nature has bestowed on some greater capacities than others; birth, education, talents, and wealth, create distinctions among men as visible, and of as much influence, as titles, stars, and garters. In every society, men of this class will command superior degree of respect; and if the government is so constituted as to admit but few to exercise the powers of it, it will, according to the natural course of things, be in their hands. Men in the middling class, who are qualified as representatives, will not be so anxious to be chosen as those of the first. When the number is so small, the office will be highly elevated and distinguished; the style in which the members live will probably be high; circumstances of this kind will render the place of a representative not a desirable one to sensible, substantial men, who have been used to walk in the plain and frugal paths of life.

Besides, the influence of the great will generally enable them to succeed in elections. It will be difficult to combine a district of country containing thirty or forty thousand inhabitants, — frame your election laws as you please, — in any other character, unless it be in one of conspicuous military, popular, civil, or legal talents. The great easily form associations; the poor and middling class form them with difficulty. If the elections be by plurality, — as probably will be the case in this state, — it is almost certain none but the great will be chosen, for they easily unite their interests: the common people will divide, and their divisions will be promoted by the others. There will be scarcely a chance of their uniting in any other but some great man, unless in some popular demagogue, who will probably be destitute of principle. A substantial yeoman, of sense and discernment, will hardly ever be chosen. From these remarks, it appears

that the government will fall into the hands of the few and the great. This will be a government of oppression. I do not mean to declaim against the great, and charge them indiscriminately with want of principle and honesty. The same passions and prejudices govern all men. The circumstances in which men are placed in a great measure give a cast to the human character. Those in middling circumstances have less temptation; they are inclined by habit, and the company with whom they associate, to set bounds to their passions and appetites. If this is not sufficient, the want of means to gratify them will be a restraint: they are obliged to employ their time in their respective callings; hence the substantial yeomanry of the country are more temperate, of better morals, and less ambition, than the great. The latter do not feel for the poor and middling class; the reasons are obvious — they are not obliged to use the same pains and labor to procure property as the other. They feel not the inconveniences arising from the payment of small sums. The great consider themselves above the common people, entitled to more respect, do not associate with them; they fancy themselves to have a right of preëminence in everything. In short, they possess the same feelings, and are under the influence of the same motives, as an hereditary nobility. I know the idea that such a distinction exists in this country is ridiculed by some; but I am not the less apprehensive of danger from their influence on this account. Such distinctions exist all the world over, have been taken notice of by all writers on free government, and are founded in the nature of things. It has been the principal care of free governments to guard against the encroachments of the great. Common observation and experience prove the existence of such distinctions. Will any one say that there does not exist in this country the pride of family, of wealth, of talents, and that they do not command influence and respect among the common people? Congress, in their address to the inhabitants of the province of Quebec, in 1775, state this distinction in the following forcible words, quoted from the Marquis Beccaria: "In every human society there is an essay continually tending to confer on one part the right of power and happiness, and to reduce the other to the extreme of weakness and misery. The intent of good laws is to oppose this effort, and to diffuse their influence

universally and equally." We ought to guard against the government being placed in the hands of this class. They cannot have that sympathy with their constituents which is necessary to connect them closely to their interests. Being in the habit of profuse living, they will be profuse in the public expenses. They find no difficulty in paying their taxes, and therefore do not feel public burdens. Besides, if they govern, they will enjoy the emoluments of the government. The middling class, from their frugal habits, and feeling themselves the public burdens, will be careful how they increase them.

But I may be asked, Would you exclude the first class in the community from any share in legislation? I answer, By no means. They would be factious, discontented, and constantly disturbing the government. It would also be unjust. They have their liberties to protect, as well as others, and the largest share of property. But my idea is, that the Constitution should be so framed as to admit this class, together with a sufficient number of the middling class to control them. You will then combine the abilities and honesty of the community, a proper degree of information, and a disposition to pursue the public good. A representative body, composed principally of respectable yeomanry, is the best possible security to liberty. When the interest of this part of the community is pursued, the public good is pursued, because the body of every nation consists of this class, and because the interest of both the rich and the poor are involved in that of the middling class. No burden can be laid on the poor but what will sensibly affect the middling class. Any law rendering property insecure would be injurious to them. When, therefore, this class in society pursue their own interest, they promote that of the public, for it is involved in it.

In so small a number of representatives, there is great danger from corruption and combination. A great politician has said that every man has his price. I hope this is not true in all its extent; but I ask the gentleman to inform me what government there is in which it has not been practised. Notwithstanding all that has been said of the defects in the constitution of the ancient confederacies in the Grecian republics, their destruction is to be imputed more to this cause than to any imperfection in their forms of govern-

ment. This was the deadly poison that effected their dissolution. This is an extensive country, increasing in population and growing in consequence. Very many lucrative offices will be in the grant of the government, which will be objects of avarice and ambition. How easy will it be to gain over a sufficient number, in the bestowment of offices, to promote the views and the purposes of those who grant them! Foreign corruption is also to be guarded against. A system of corruption is known to be the system of government in Europe. It is practised without blushing; and we may lay it to our account, it will be attempted amongst us. The most effectual as well as natural security against this is a strong democratic branch in the legislature, frequently chosen, including in it a number of the substantial, sensible yeomanry of the country. Does the House of Representatives answer his description? I confess, to me they hardly wear the complexion of a democratic branch; they appear the mere shadow of representation. The whole number, in both houses, amounts to ninety-one; of these forty-six make a quorum; and twenty-four of those, being secured, may carry any point. Can the liberties of three millions of people be securely trusted in the hands of twenty-four men? Is it prudent to commit to so small a number the decision of the great questions which will come before them? Reason revolts at the idea.

The honorable gentleman from New York has said, that sixty-five members in the House of Representatives are sufficient for the present situation of the country; and, taking it for granted that they will increase as one for thirty thousand, in twenty-five years they will amount to two hundred. It is admitted, by this observation, that the number fixed in the Constitution is not sufficient without it is augmented. It is not declared that an increase shall be made, but is left at the discretion of the legislature, by the gentleman's own concession; therefore the Constitution is imperfect. We certainly ought to fix, in the Constitution, those things which are essential to liberty. If any thing falls under this description, it is the number of the legislature. To say, as this gentleman does, that our security is to depend upon the spirit of the people, who will be watchful of their liberties, and not suffer them to be infringed, is absurd. It would equally prove that we might adopt any

form of government. I believe, were we to create a despot, he would not immediately dare to act the tyrant; but it would not be long before he would destroy the spirit of the people, or the people would destroy him. If our people have a high sense of liberty, the government should be congenial to this spirit, calculated to cherish the love of liberty, while yet it had sufficient force to restrain licentiousness. Government operates upon the spirit of the people, as well as the spirit of the people operates upon it; and if they are not conformable to each other, the one or the other will prevail. In a less time than twenty-five years, the government will receive its tone. What the spirit of the country may be at the end of that period, it is impossible to foretell. Our duty is to frame a government friendly to liberty and the rights of mankind, which will tend to cherish and cultivate a love of liberty among our citizens. If this government becomes oppressive, it will be by degrees: it will aim at its end by disseminating sentiments of government opposite to republicanism, and proceed from step to step in depriving the people of a share in the government. A recollection of the change that has taken place in the minds of many in this country in the course of a few years, ought to put us on our guard. Many, who are ardent advocates for the new system, reprobate republican principles as chimerical, and such as ought to be expelled from society. Who would have thought, ten years ago, that the very men, who risked their lives and fortunes in support of republican principles, would now treat them as the fictions of fancy? A few years ago, we fought for liberty; we framed a general government on free principles; we placed the state legislatures, in whom the people have a full and a fair representation, between Congress and the people. We were then, it is true, too cautious, and too much restricted the powers of the general government. But now it is proposed to go into the contrary, and a more dangerous extreme—to remove all barriers, to give the new government free access to our pockets, and ample command of our persons, and that without providing for a genuine and fair representation of the people. No one can say what the progress of the change of sentiment may be in twenty-five years. The same men who now cry the necessity of an energetic government, to induce a compliance with this system, may, in much less time, repro-

this in as severe terms as they now do the Confederation, and may as strongly urge the necessity of going as far beyond this as this is beyond the Confederation. Men of this class are increasing: they have influence, talents, and industry. It is time to form a barrier against them. And while we are willing to establish a government adequate to the purposes of the Union, let us be careful to establish it on the broad basis of equal liberty.

Mr. HAMILTON then resumed his argument. When, said he, I had the honor to address the committee yesterday, I gave a history of the circumstances which attended the Convention, when forming the plan before you. I endeavored to point out to you the principles of accommodation on which this arrangement was made, and to show that the contending interests of the states led them to establish the representation as it now stands. In the second place, I attempted to prove that, in point of number, the representation would be perfectly secure. Sir, no man agrees more perfectly than myself to the main principle for which the gentlemen contend. I agree that there should be a broad democratic branch in the national legislature. But this matter, sir, depends on circumstances. It is impossible, in the first instance, to be precise and exact with regard to the number; and it is equally impossible to determine to what point it may be proper in future to increase it. On this ground I am disposed to acquiesce. In my reasonings on this subject of government, I rely more on the interests and opinions of men, than on any speculative parchment provisions whatever. I have found that constitutions are more or less excellent as they are more or less agreeable to the natural operation of things. I am, therefore, disposed not to dwell long on curious speculations, or pay much attention to modes and forms; but to adopt a system whose principles have been sanctioned by experience, adapt it to the real state of our country, and depend on probable reasonings for its operation and result. I contend that sixty-five and twenty-six, in two bodies, afford perfect security, in the present state of things; and that the regular progressive enlargement, which was in the contemplation of the general Convention, will leave not an apprehension of danger in the most timid and suspicious mind. It will be the interest of the large states to increase the representation. This will be the standing instruction to

their delegates. But, say the gentlemen, the members of Congress will be interested not to increase the number, as it will diminish their relative influence. In all their reasoning upon this subject, there seems to be this fallacy: They suppose that the representative will have no motive of action, on the one side, but a sense of duty; or on the other, but corruption. They do not reflect that he is to return to the community; that he is dependent on the will of the people, and that it cannot be his interest to oppose their wishes. Sir, the general sense of the people will regulate the conduct of their representatives. I admit that there are exceptions to this rule: there are certain conjunctures, when it may be necessary and proper to disregard the opinions which the majority of the people have formed. But, in the general course of things, the popular views, and even prejudices, will direct the actions of the rulers.

All governments, even the most despotic, depend, in a great degree, on opinion. In free republics, it is most peculiarly the case. In these, the will of the people makes the essential principle of the government; and the laws which control the community receive their tone and spirit from the public wishes. It is the fortunate situation of our country, that the minds of the people are exceedingly enlightened and refined. Here, then, we may expect the laws to be proportionably agreeable to the standard of perfect policy, and the wisdom of public measures to consist with the most intimate conformity between the views of the representative and his constituent. If the general voice of the people be for an increase, it undoubtedly must take place. They have it in their power to instruct their representatives; and the state legislatures, which appoint the senators, may enjoin it also upon them. Sir, if I believed that the number would remain at sixty-five, I confess I should give my vote for an amendment, though in a different form from the one proposed.

The amendment proposes a ratio of one for twenty thousand. I would ask by what rule or reasoning it is determined that one man is a better representative for twenty than thirty thousand. At present we have three millions of people; in twenty-five years, we shall have six millions; and in forty years, nine millions. And this is a short period, as it relates to the existence of states. Here, then, accord-

ing to the ratio of one for thirty thousand, we shall have, in forty years, three hundred representatives. If this be true, and if this be a safe representation, why be dissatisfied? Why embarrass the Constitution with amendments that are merely speculative and useless? I agree with the gentleman, that a very small number might give some color for suspicion. I acknowledge that ten would be unsafe; on the other hand, a thousand would be too numerous. But I ask him, Why will not ninety-one be an adequate and safe representation? This, at present, appears to be the proper medium. Besides, the President of the United States will be himself the representative of the people. From the competition that ever subsists between the branches of government, the President will be induced to protect their rights, whenever they are invaded by either branch. On whatever side we view this subject, we discover various and powerful checks to the encroachments of Congress. The true and permanent interests of the members are opposed to corruption. Their number is vastly too large for easy combination. The rivalry between the houses will forever prove an insuperable obstacle. The people have an obvious and powerful protection in their state governments. Should any thing dangerous be attempted, these bodies of perpetual observation will be capable of forming and conducting plans of regular opposition. Can we suppose the people's love of liberty will not, under the incitement of their legislative leaders, be roused into resistance, and the madness of tyranny be extinguished at a blow? Sir, the danger is too distant; it is beyond all rational calculations.

It has been observed, by an honorable gentleman, that a pure democracy, if it were practicable, would be the most perfect government. Experience has proved that no position in politics is more false than this. The ancient democracies, in which the people themselves deliberated, never possessed one feature of good government. Their very character was tyranny; their figure, deformity. When they assembled, the field of debate presented an ungovernable mob, not only incapable of deliberation, but prepared for every enormity. In these assemblies, the enemies of the people brought forward their plans of ambition systematically. They were opposed by their enemies of another party; and it became a matter of contingency, whether the people suo-

jected themselves to be led blindly by one tyrant or by another.

It was remarked yesterday, that a numerous representation was necessary to obtain the confidence of the people. This is not generally true. The confidence of the people will easily be gained by a good administration. This is the true touchstone. I could illustrate the position by a variety of historical examples, both ancient and modern. In Sparta, the ephori were a body of magistrates, instituted as a check upon the senate, and representing the people. They consisted of only five men; but they were able to protect their rights, and therefore enjoyed their confidence and attachment. In Rome, the people were represented by three tribunes, who were afterwards increased to ten. Every one acquainted with the history of that republic will recollect how powerful a check to the senatorial encroachments this small body proved; how unlimited a confidence was placed in them by the people, whose guardians they were; and to what a conspicuous station in the government their influence at length elevated the plebeians. Massachusetts has three hundred representatives; New York has sixty-five. Have the people in this state less confidence in their representation than the people of that? Delaware has twenty-one. Do the inhabitants of New York feel a higher confidence than those of Delaware? I have stated these examples to prove that the gentleman's principle is not just. The popular confidence depends on circumstances very distinct from considerations of number. Probably the public attachment is more strongly secured by a train of prosperous events, which are the result of wise deliberation and vigorous execution, and to which large bodies are much less competent than small ones. If the representative conducts with propriety, he will necessarily enjoy the good-will of the constituent. It appears, then, if my reasoning be just, that the clause is perfectly proper, upon the principles of the gentleman who contends for the amendment; as there is in it the greatest degree of present security, and a moral certainty of an increase equal to our utmost wishes.

It has been further, by the gentlemen in the opposition, observed, that a large representation is necessary to understand the interests of the people. This principle is by no means true in the extent to which the gentlemen seem to

carry it. I would ask, Why may not a man understand the interests of thirty as well as of twenty? The position appears to be made upon the unfounded presumption that all the interests of all parts of the community must be represented. No idea is more erroneous than this. Only such interests are proper to be represented as are involved in the powers of the general government. These interests come completely under the observation of one or a few men; and the requisite information is by no means augmented in proportion to the increase of number. What are the objects of the government? Commerce, taxation, &c. In order to comprehend the interests of commerce, is it necessary to know how wheat is raised, and in what proportion it is produced in one district and in another? By no means. Neither is this species of knowledge necessary in general calculations upon the subject of taxation. The information necessary for these purposes is that which is open to every intelligent inquirer, and of which five men may be as perfectly possessed as fifty. In royal governments, there are usually particular men to whom the business of taxation is committed. These men have the forming of systems of finance, and the regulation of the revenue. I do not mean to commend this practice. It proves, however, this point — that a few individuals may be competent to these objects, and that large numbers are not necessary to perfection in the science of taxation. But grant, for a moment, that this minute and local knowledge the gentlemen contend for is necessary; let us see if, under the new Constitution, it will not probably be found in the representation. The natural and proper mode of holding elections will be, to divide the state into districts, in proportion to the number to be elected. This state will consequently be divided, at first, into six. One man from each district will probably possess all the knowledge gentlemen can desire. Are the senators of this state more ignorant of the interests of the people than the Assembly? Have they not ever enjoyed their confidence as much? Yet, instead of six districts, they are elected in four; and the chance of their being collected from the smaller divisions of the state consequently diminishes. Their number is but twenty-four; and their powers are coextensive with those of the Assembly, and reach objects which are most dear to the people — life, liberty, and property.

Sir, we hear constantly a great deal which is rather calculated to awake our passions, and create prejudices, than to conduct us to the truth, and teach us our real interests. I do not suppose this to be the design of the gentlemen. Why, then, are we told so often of an aristocracy? For my part, I hardly know the meaning of this word, as it is applied. If all we hear be true, this government is really a very bad one. But who are the aristocracy among us? Where do we find men elevated to a perpetual rank above their fellow-citizens, and possessing powers entirely independent of them? The arguments of the gentlemen only go to prove that there are men who are rich, men who are poor, some who are wise, and others who are not; that, indeed, every distinguished man is an aristocrat. This reminds me of a description of the aristocrats I have seen in a late publication styled the *Federal Farmer*. The author reckons in the aristocracy all governors of states, members of Congress, chief magistrates, and all officers of the militia. This description, I presume to say, is ridiculous. The image is a phantom. Does the new government render a rich man more eligible than a poor one? No. It requires no such qualification. It is bottomed on the broad and equal principle of your state constitution.

Sir, if the people have it in their option to elect their most meritorious men, is this to be considered as an objection? Shall the Constitution oppose their wishes, and abridge their most invaluable privilege? While property continues to be pretty equally divided, and a considerable share of information pervades the community, the tendency of the people's suffrages will be to elevate merit even from obscurity. As riches increase and accumulate in few hands, as luxury prevails in society, virtue will be in a greater degree considered as only a graceful appendage of wealth, and the tendency of things will be to depart from the republican standard. This is the real disposition of human nature: it is what neither the honorable member nor myself can correct; it is a common misfortune, that awaits our state constitution as well as all others.

There is an advantage incident to large districts of election, which perhaps the gentlemen, amidst all their apprehensions of influence and bribery, have not adverted to. In large districts, the corruption of the electors is much more difficult; combinations for the purposes of intrigue are less easily

med ; factions and cabals are little known. In a small tract, wealth will have a more complete influence, because people in the vicinity of a great man are more immediately his dependants, and because this influence has fewer effects to act upon. It has been remarked, that it would be agreeable to the middle class of men to go to the seat of the new government. If this be so, the difficulty will be surmounted by the gentleman's proposal. If his argument be true, it proves that the larger the representation is, the less will be your chance of having it filled. But it appears to me unwarrantable to bring forward such arguments as these. It has answered no other purpose than to induce me, by way of apology, to enter into discussion, which I consider as useless, and not applicable to our subject.

It is a harsh doctrine that men grow wicked in proportion as they improve and enlighten their minds. Experience has no means justified us in the supposition that there is more virtue in one class of men than in another. Look through the rich and the poor of the community, the learned and the ignorant. Where does virtue predominate ? The difference needed consists, not in the quantity, but kind, of vices which are incident to various classes ; and here the advantage of character belongs to the wealthy. Their vices are probably more favorable to the prosperity of the state than those of the indigent, and partake less of moral depravity.

After all, sir, we must submit to this idea, that the true principle of a republic is, that the people should choose whom they please to govern them. Representation is imperfect in proportion as the current of popular favor is checked. This is the source of free government, popular election, should be perfectly pure, and the most unbounded liberty allowed. Where this principle is adhered to ; where, in the organization of the government, the legislative, executive, and judicial branches are rendered distinct ; where, again, the legislature is divided into separate houses, and the operations of each are controlled by various checks and balances, and, above all, the vigilance and weight of the state governments, — to guard against tyranny, and the subversion of our liberties, is to speak in the language of enthusiasm. This balance between the national and state governments ought to be dwelt on with peculiar attention, as it is of the utmost importance. It affords a double security to the people. If one encroaches on

their rights, they will find a powerful protection in the other. Indeed, they will both be prevented from overpassing the constitutional limits, by a certain rivalry, which will ever subsist between them. I am persuaded that a firm union, as necessary to perpetuate our liberties as it is to make a respectable; and experience will probably prove that the national government will be as natural a guardian of our freedom as the state legislature themselves.

Suggestions, sir, of an extraordinary nature, have been frequently thrown out in the course of the present political controversy. It gives me pain to dwell on topics of this kind, and I wish they might be dismissed. We have been told that the old Confederation has proved inefficacious, only because intriguing and powerful men, aiming at a revolution, have been forever instigating the people, and rendering them disaffected with it. This, sir, is a false insinuation. The thing is impossible. I will venture to assert, that no combination of designing men under heaven will be capable of making a government unpopular which is in its principles a wise and good one, and vigorous in its operations.

The Confederation was framed amidst the agitation and tumults of society. It was composed of unsound materials put together in haste. Men of intelligence discovered the feebleness of the structure, in the first stages of its existence but the great body of the people, too much engrossed with their distresses to contemplate any but the immediate cause of them, were ignorant of the defects of their constitution. But when the dangers of war were removed, they saw clearly what they had suffered, and what they had yet to suffer, from a feeble form of government. There was no need of discerning men to convince the people of their unhappy situation; the complaint was coëxtensive with the evil, and both were common to all classes of the community. We have been told that the spirit of patriotism and love of liberty are almost extinguished among the people, and that it has become a prevailing doctrine that republican principles ought to be hooted out of the world. Sir, I am confident that such remarks as these are rather occasioned by the heat of argument than by a cool conviction of their truth and justice. As far as my experience has extended, I have heard no such doctrine; nor have I discovered any diminution of regard for those rights and liberties, in defence of which the people

have fought and suffered. There have been, undoubtedly, some men who have had speculative doubts on the subject of government; but the principles of republicanism are founded on too firm a basis to be shaken by a few speculative and skeptical reasoners. Our error has been of a very different kind. We have erred through excess of caution, and a zeal false and impracticable. Our counsels have been destitute of consistency and stability. I am flattered with the hope, sir, that we have now found a cure for the evils under which we have so long labored. I trust that the proposed Constitution affords a genuine specimen of representative and republican government, and that it will answer, in an eminent degree, all the beneficial purposes of society.

The Hon. MELANCTON SMITH rose, and observed, that the gentleman might have spared many of his remarks in answer to the ideas he had advanced. The only way to remedy and correct the faults in the proposed Constitution was, he imagined, to increase the representation and limit the powers. He admitted that no precise number could be fixed upon. His object only was to augment the number in such a degree as to render the government more favorable to liberty. The gentleman had charged his argument, that it would be the interest of Congress to diminish the number of representatives, as being puerile. It was only made in answer to another of the gentleman's, which he thought equally weak — that it would be their interest to increase it. It appeared to him, he said, evident that the relative interests of the states would not be in the least degree increased by augmenting the numbers. The honorable member had assured the committee that the states would be checks upon the general government, and had pledged himself to point out and demonstrate the operation of these checks. For his own part, he could see no possibility of checking a government of independent powers, which extended to all objects and resources without limitation. What he lamented was, that no constitutional checks were provided — such checks as would not leave the exercise of government to the operation of causes which, in their nature, are variable and uncertain.

The honorable member had observed, that the confidence of the people was not necessarily connected with the number of their rulers, and had cited the ephori of Sparta, and the tribunes in Rome, as examples. But it ought to be cor-

sidered, that, in those places, the people were to contend with a body of hereditary nobles; they would, therefore, naturally have confidence in a few men who were their leaders in the constant struggle for liberty. The comparison between the representations of several states did not better apply. New York had but sixty-five representatives in Assembly. But because sixty-five was a proper representation of two hundred and forty thousand, did it follow that it was also sufficient for three millions? The state legislatures had not the powers of the general government, and were not competent to those important regulations which might endanger liberty.

The gentleman, continued Mr. Smith, had ridiculed his idea of an aristocracy, and had entered into a definition of the word. He himself agreed to this definition, but the dispute was not of words, but things. He was convinced that in every society there were certain men exalted above the rest. These men he did not consider as destitute of morality or virtue. He only insisted that they could not feel sympathetically the wants of the people.

The Hon. Mr. LANSING said that, in the course of the observations made on the paragraph under consideration, it had been shown that the democratic branch ought to possess the feelings of the people, and be above corruption. It was, therefore, with propriety contended that the House of Representatives ought to be large. This had been objected to, he said, because it was difficult to ascertain the precise number proper for this end. But though we could not always hit the exact medium, yet we could generally avoid the extremes. Allowing that it was the interest of the larger states to increase the representation, yet it would be imprudent to trust a matter of such infinite importance to possibilities, or the uncertain operations of interest. He said, we had it now in our power to fix and provide for the operations of this government; and we ought to embrace the opportunity. An honorable gentleman had said, that the state of New York had trusted her liberties to a few men. But was this a reason why the rights of the United States should be submitted to an equal number? The representatives of New York, in Assembly, were chosen from all parts of the state; they were intimately connected with and dependent on the people. In the general government, they

are to be selected from the superior class of citizens, and subject to little or no control. Would it be prudent, said he, to trust the affairs of this extensive continent to a body of men, forty-six of whom would be competent to pass laws, and twenty-four of these a majority? The House of Commons of Great Britain consisted of more than eight times the number, and yet that house had been frequently corrupted. How much more easily might so small a body as a Congress be infected!

His Excellency, Gov. CLINTON. I rise, Mr. Chairman, to make a few observations, with a view to obtain information, and to discover on which side of this important question the truth rests. I have attended, with pleasure, to the gentlemen who have spoken before me. They appear, however, to have omitted some considerations, which have needed to convince my mind, that the representation in Congress ought to be more comprehensive and full than is proposed by this Constitution. It is said, that the representation of this state in the legislature is smaller than the representation of the United States will be in the general government. Hence it is inferred that the federal government, which, it is said, does not embrace more interesting powers than that of the states, will be more favorable to the interests of the people, on the principle that safety consists in numbers. This appears plausible at first view; but if we examine it, we shall discover it to be only plausible. The cases, indeed, are so different, as to admit of little comparison; and this dissimilarity depends on the difference of extent of territory. Each state is but a narrow district, compared with the United States. The situation of its commerce, its agriculture, and the system of its resources, will be proportionably more uniform and simple. To a knowledge of these circumstances, therefore, every member of the state legislature will be in some degree competent. He will have a considerable share of information necessary for enacting laws which are to operate in every part of the state. The easy communication with a large number of representatives, from the minute districts of the state, will increase his acquaintance with the public wants. All the representatives, having the same advantages, will furnish a mass of information, which will be the securest defence from error. How different will be the situation of the general

government! The body of the legislature will be totally unacquainted with all those local circumstances of any particular state, which mark the proper objects of laws, and especially of taxation. A few men, possessed of but a very general knowledge of these objects, must alone furnish Congress with that information on which they are to act; and on these few men, in the most interesting transactions, must they rely. Do not these considerations afford reasons for an enlargement of the representation?

Another argument may be suggested to show, that there will be more safety in the state than in the federal government. In the state, the legislators, being generally known, and under the perpetual observation of their fellow-citizens, feel strongly the check resulting from the facility of communication and discovery. In a small territory, maladministration is easily corrected, and designs unfavorable to liberty frustrated and punished. But in large confederacies, the alarm excited by small and gradual encroachments rarely extends to the distant members, or inspires a general spirit of resistance. When we take a view of the United States, we find them embracing interests as various as their territory is extensive. Their habits, their productions, their resources, and their political and commercial regulations, are as different as those of any nation upon earth. A general law, therefore, which might be well calculated for Georgia, might operate most disadvantageously and cruelly upon New York. However, I only suggest these observations, for the purpose of hearing them satisfactorily answered. I am open to conviction, and if my objections can be removed, I shall be ready frankly to acknowledge their weakness.

The Hon. Mr. HAMILTON. Mr. Chairman, I rise to take notice of the observation of the honorable member from Ulster. I imagine the objections he has stated are susceptible of a complete and satisfactory refutation. But, before I proceed to this, I shall attend to the arguments advanced by the gentleman from Albany and Dutchess. These arguments have been frequently urged, and much confidence has been placed in their strength. The danger of corruption has been dwelt upon with peculiar emphasis, and presented to our view in the most heightened and unnatural coloring. Events merely possible have been magnified, by distempered imagination, into inevitable realities; and the

most distant and doubtful conjectures have been formed into serious and infallible prediction. In the same spirit, the most fallacious calculations have been made. The lowest possible quorum has been contemplated, as the number to transact important business; and a majority of these to decide in all cases on questions of infinite moment. Allowing, at the present, the propriety and truth of these apprehensions, it would be easy, in comparing the two Constitutions, to prove that the chances of corruption under the new are much fewer than those to which the old is exposed. Under the old Confederation, the important powers of declaring war, making peace, &c., can be exercised by nine states. On the presumption that the smallest constitutional number will deliberate and decide, those interesting powers will be committed to fewer men under the ancient than under the new government. In the former, eighteen members, in the latter, not less than twenty-four, may determine all great questions. Thus, on the principles of the gentlemen, the brighter prospect of safety is clearly visible in the new government. That we may have the fullest conviction of the truth of this position, it ought to be suggested, as a decisive argument, that it will ever be the interest of the several states to maintain, under the new government, an ample representation; for, as every member has a vote, the relative influence and authority of each state will be in proportion to the number of representatives she has in Congress. There is not, therefore, a shadow of probability that the number of acting members, in the general legislature, will be ever reduced to bare quorum; especially as the expense of their support is to be defrayed from a federal treasury. But, under the existing Confederation, each state has but one vote. It will be a matter of indifference, on the score of influence, whether he delegates two or six representatives; and the maintenance of them, forming a striking article in the state expenditures, will forever prove a capital inducement to retain or withdraw from the federal legislatures those delegates which their selfishness may too often consider as superfluous.

There is another source of corruption, in the old government, which the proposed plan is happily calculated to remedy. The concurrence of nine states, as has been observed, is necessary to pass resolves the most important, and on which the safety of the public may depend. If these nine

states are at any time assembled, a foreign enemy, by dividing a state, and gaining over and silencing a single member, may frustrate the most indispensable plan of national policy, and totally prevent a measure essential to the welfare or existence of the empire. Here, then, we find a radical, dangerous defect, which will forever embarrass and obstruct the machine of government, and suspend our fate on the uncertain virtue of an individual. What a difference between the old and new Constitution strikes our view! In the one, corruption must embrace a majority; in the other, her poison, administered to a single man, may render the efforts of a majority totally vain. This mode of corruption is still more dangerous, as its operations are more secret and imperceptible. The exertions of active villany are commonly accompanied with circumstances which tend to its own exposure; but this negative kind of guilt has so many plausible apologies as almost to elude suspicion.

In all reasonings on the subject of corruption, much use has been made of the examples furnished by the British House of Commons. Many mistakes have arisen from fallacious comparisons between our government and theirs. It is time that the real state of this matter should be explained. By far the greatest part of the House of Commons is composed of representatives of towns or boroughs. These towns had anciently no voice in Parliament; but on the extension of commercial wealth and influence, they were admitted to a seat. Many of them are in the possession and gift of the king; and, from their dependence on him, and the destruction of the right of free election, they are stigmatized with the appellation of *rotten boroughs*.* This is the true source of the corruption which has so long excited the severe animadversion of zealous politicians and patriots. But the knights of the shire, who form another branch of the House of Commons, and who are chosen from the body of the counties they represent, have been generally esteemed a virtuous and incorruptible set of men. I appeal, sir, to the history of that house: this will show us that the rights of the people have ever been safely trusted to their protection;

* By the British Parliamentary Reform Act, 9th June, 1833, 56 rotten boroughs have been disfranchised; 30 others cut down to a single member; 19 new boroughs of one member each, and 62 new county members, added. Total number of members, 655.

that they have been the ablest bulwarks of the British commons ; and that, in the conflict of parties, by throwing their weight into one scale or the other, they have uniformly supported and strengthened the constitutional claims of the people. Notwithstanding the cry of corruption that has been perpetually raised against the House of Commons, it has been found that that house, sitting at first without any constitutional authority, became, at length, an essential member of the legislature, and have since, by regular gradations, acquired new and important accessions of privilege ; that they have, on numerous occasions, impaired the prerogative, and limited the monarchy.

An honorable member from Duchess (Mr. Smith) has observed, that the delegates from New York (for example) can have very little information of the local circumstances of Georgia or South Carolina, except from the representatives of those states ; and on this ground insists upon the expediency of an enlargement of the representation ; since, otherwise, the majority must rely too much on the information of a few. In order to determine whether there is any weight in this reasoning, let us consider the powers of the national government, and compare them with the objects of state legislation. The powers of the new government are general, and calculated to embrace the aggregate interests of the Union, and the general interest of each state, so far as it stands in relation to the whole. The object of the state governments is to provide for their internal interests, as unconnected with the United States, and as composed of minute parts or districts. A particular knowledge, therefore, of the local circumstances of any state, as they may vary in different districts, is unnecessary for the federal representative. As he is not to represent the interests or local wants of the county of Duchess or Montgomery, neither is it necessary that he should be acquainted with their particular resources. But in the state governments, as the laws regard the interest of the people, in all their various minute divisions, it is necessary that the smallest interests should be represented. Taking these distinctions into view, I think it must appear evident, that one discerning and intelligent man will be as capable of understanding and representing the general interests of a state as twenty ; because one man can be as fully acquainted with the general state of the com-

merce, manufactures, population, production, and common resources of a state, which are the proper objects of federal legislation. It is presumed that few men originally possess a complete knowledge of the circumstances of other states. They must rely, therefore, on the information to be collected from the representatives of those states. And if the above reasoning be just, it appears evident, I imagine, that this reliance will be as secure as can be desired.

Sir, in my experience of public affairs, I have constantly remarked, in the conduct of members of Congress, a strong and uniform attachment to the interests of their own state. These interests have, on many occasions, been adhered to with an undue and illiberal pertinacity, and have too often been preferred to the welfare of the Union. This attachment has given birth to an unaccommodating spirit of party, which has frequently embarrassed the best measures. It is by no means, however, an object of surprise. The early connections we have formed, the habits and prejudices in which we have been bred, fix our affections so strongly, that no future objects of association can easily eradicate them. This, together with the entire and immediate dependence the representative feels on his constituent, will generally incline him to prefer the particular before the public good.

The subject on which this argument of a small representation has been most plausibly used, is taxation. As to internal taxation, in which the difficulty principally rests, it is not probable that any general regulation will originate in the national legislature. If Congress, in times of great danger and distress, should be driven to this resource, they will undoubtedly adopt such measures as are most conformable to the laws and customs of each state. They will take up your own codes, and consult your own systems. This is a source of information which cannot mislead, and which will be equally accessible to every member. It will teach them the most certain, safe, and expeditious mode of laying and collecting taxes in each state. They will appoint the officers of revenue agreeably to the spirit of your particular establishments, or they will make use of your own.

Sir, the most powerful obstacle to the members of Congress betraying the interest of their constituents, is the state legislatures themselves, who will be standing bodies of observation, possessing the confidence of the people, jealous of

federal encroachments, and armed with every power to check the first essays of treachery. They will institute regular modes of inquiry. The complicated domestic attachments, which subsist between the state legislators and their electors, will ever make them vigilant guardians of the people's rights. Possessed of the means and the disposition of resistance, the spirit of opposition will be easily communicated to the people, and, under the conduct of an organized body of leaders, will act with weight and system. Thus it appears that the very structure of the confederacy affords the surest preventives from error, and the most powerful checks to misconduct.

Sir, there is something in an argument that has been urged, which, if it proves any thing, concludes against all union and all governments ; it goes to prove that no powers should be intrusted to any body of men, because they may be abused. This is an argument of possibility and chance — one that would render useless all reasonings upon the probable operation of things, and defeat the established principles of natural and moral causes. It is a species of reasoning sometimes used to excite popular jealousies, but is generally discarded by wise and discerning men. I do not suppose that the honorable member who advanced the idea had any such design. He undoubtedly would not wish to extend his arguments to the destruction of union or government ; but this, sir, is its real tendency.

It has been asserted that the interests, habits, and manners of the thirteen states are different ; and hence it is inferred that no general free government can suit them. This diversity of habits, &c., has been a favorite theme with those who are disposed for a division of our empire, and, like many other popular objections, seems to be founded on fallacy. I acknowledge that the local interests of the states are in some degree various, and that there is some difference in the manners and habits. But this I will presume to affirm, that, from New Hampshire to Georgia, the people of America are as uniform in their interests and manners as those of any established in Europe. This diversity, to the eye of a speculatist, may afford some marks of characteristic discrimination, but cannot form an impediment to the regular operation of those general powers which the Constitution gives to the united government. Were the laws of the

Union to new-model the internal police of any state ; were they to alter, or abrogate at a blow, the whole of its civil and criminal institutions ; were they to penetrate the recesses of domestic life, and control, in all respects, the private conduct of individuals, — there might be more force in the objection ; and the same Constitution, which was happily calculated for one state, might sacrifice the welfare of another. Though the difference of interests may create some difficulty, and apparent partiality, in the first operations of government, yet the same spirit of accommodation, which produced the plan under discussion, would be exercised in lessening the weight of unequal burdens. Add to this, that, under the regular and gentle influence of general laws, these varying interests will be constantly assimilating, till they embrace each other, and assume the same complexion.

Gov. CLINTON. The gentleman has attempted to give an unjust and unnatural coloring to my observations. I am really at a loss to determine whence he draws his inference. I declare that the dissolution of the Union is, of all events, the remotest from my wishes. That gentleman may wish for a consolidated, I wish for a federal republic. The object of both of us is a firm, energetic government ; and we may both have the good of our country in view, though we disagree as to the means of procuring it. It is not fair reasoning to infer that a man wants no government at all, because he attempts to qualify it so as to make it safe and easy.

Mr. HAMILTON. I only rise to observe that the gentleman has misunderstood me. What I meant to express was this — that if we argued from possibilities only, — if we reasoned from chances, or an ungovernable propensity to evil, instead of taking into view the control which the nature of things, or the form of the Constitution, provided, — the argument would lead us to withdraw all confidence from our fellow-citizens, and discard the chimerical idea of government. This is a true deduction from such reasoning.

Mr. SMITH then made a few observations ; after which the committee rose, and the Convention adjourned to Monday morning at ten o'clock.

MONDAY, *June 23*, 1788. — Mr. HARRISON. The subject under consideration, Mr. Chairman, is of the highest importance. It is a subject with which the liberties, the prosperity, and the glory of our country are most intimately

connected. It has very properly employed the time and attention of the greatest and wisest men. Impressed with the most earnest desire to discover truth, and to acquit myself well in defence of its cause, I have listened with attention to the gentlemen who have spoken before me. It may, at first view, appear unnecessary to enlarge on a point which has undergone so thorough a discussion; but I trust the committee will consider no time lost which is spent on this interesting subject.

The gentlemen who have preceded me in the debate, however they may have differed with respect to certain points, they have agreed in others of capital importance, and which I shall beg leave in a concise manner to review. It is conceded that the old Confederation is inadequate to the purposes of good government; that, for its support, it has no other resources but feeble requisitions, which may be complied with or rejected by the states, as whim, caprice, or local interest, may influence them: in this point, gentlemen have agreed that remedy is necessary. The second point agreed on, and which is of equal consequence, is, that a close union is essential to the prosperity of the states; that, therefore, some measures should be pursued to strengthen that union, and prevent a dissolution. But, sir, interesting as these points are, there is another, which, on all sides, has been conceded, and which shall ever govern my conduct. It is, that, although the union ought to be secured, we are by no means to sacrifice to it the liberties of the people. It is our duty, sir, to abandon prejudices, and examine the Constitution closely and candidly; and if we find that it leads to the sacrifice I have mentioned, we shall undoubtedly reject it. But, on the contrary, we discover that its principles tend to unite the perfect security of liberty with the stability of union, we shall adopt it with a unanimity which will recommend it to the confidence of the people.

I come now, sir, to offer a few ideas on the article under debate. Among the objections, that which has been made to the mode of apportionment of representatives has been relinquished. I think this concession does honor to the gentleman who had stated the objection. He has candidly acknowledged that this apportionment was the result of accommodation, without which no union could have been formed. But, sir, there are other objections, which are cer

tainly plausible, and which, were they made to the paragraph in its genuine sense, I would acknowledge to be forcible. The gentlemen first consider the House of Representatives as too small, and not capable of representing the interests of their constituents. I cannot, by any means, agree with them, that there probably will be a time when six men cannot, in this state, be found sufficiently honest and well informed to represent the feelings, as well as interests, of the body of the people. The gentlemen should, in the debate have adverted to this circumstance, that the number, as well as the apportionment, of representatives was a matter of conciliation; that some states, impressed with a sense of the public burdens, were willing to oppress the people as little as possible: they were disinclined to have that body more numerous than was requisite to insure and protect their liberties and their true interests. We might suppose the number proposed in the Constitution to be inadequate: they were of a different opinion. But, sir, though the number specified in this article were barely sufficient, or even too small, yet I contend that it is a thing merely temporary, and that the article itself clearly provides a remedy. An honorable gentleman, who preceded me, has proved that the article contemplates and secures a regular increase of the representation. I confess that my mind is entirely satisfied with his reasoning.

I beg leave, however, sir, to state the subject to the committee in one more point of light. It appears to me that the gentlemen who have supposed that Congress have it in their power to reduce the number, have not attended, with sufficient care, to the language of the paragraph. It is declared that the representation shall be in proportion to the number of inhabitants, and that every state shall have at least one. The state of Delaware may contain about thirty-three thousand inhabitants. Every gentleman acquainted with that state knows that it has been long settled, and probably has been for some time stationary in point of population. While the large tracts of vacant territory in the states which surround it hold out so many allurements to emigration, I am convinced there is no prospect of its increasing at least for a very long period of years. When I make this observation, I think I argue from established principles. From this I infer that there is the utmost probability that

the number of Delaware will be taken as the standard. If this be done, the number composing the House of Representatives, after the first census, will be more than sixty-five, which is the present number; because this specified number is calculated on the ratio of about one for forty thousand. Upon the same principles, while Delaware is stationary, and the population of the other states advances rapidly, the number of Delaware will continue to be the standard. Thus, if Delaware, at the first census, contains thirty-five thousand inhabitants, New York may then contain about two hundred and sixty-five thousand, and will be entitled to eight representatives. To pursue the argument a little further: It will ever be the interest of the larger states to keep the ratio uniform, by assuming the number of the smallest state as the standard; because, by this, as the smallest state will be confined to one, the relative influence of the larger states will be augmented. For example: if Delaware possesses thirty thousand, and Maryland a hundred thousand, it will be the interest of Maryland to fix the ratio at one for thirty, and not one for forty thousand, because, in the first case, she will have three representatives, or two more than Delaware; in the latter, she will have only two representatives, or one more than Delaware. This reasoning appears to me to lead to mathematical certainty.

According to the *ratio* established in the Constitution, as the number of the inhabitants in the United States increases, the number of representatives would also increase to a great degree, and in a century would become an unwieldy mob. It is therefore expedient and necessary that the Constitution should be so framed as to leave to the general legislature a discretionary power to limit the representation by forming a new ratio. These considerations have left no doubt in my mind of the propriety of the article under debate. I am clear that it contemplates an increase, till the extensive population of the country shall render a limitation indispensable. What, then, is the object of our fears? I am convinced that a legislature composed of ninety-one members is amply sufficient for the present state of our country. I have too high an opinion of the integrity of my fellow-citizens to believe they will or can be corrupted in three years, and at the expiration of this term, the increase I mention will most assuredly take place. Let us, therefore, dispel all visionary

apprehensions on this subject, and, disregarding possible dangers, let us reason from the probable operation of things, and rely on this for our safety.

The Hon. Mr. LANSING. I do not rise, Mr. Chairman, to answer any of the arguments of the gentlemen, but to mention a few facts. In this debate, much reliance has been placed on an accommodation which took place in the *general Convention*. I will state the progress of that business. When the subject of the apportionment of representatives came forward, the large states insisted that the equality of suffrage should be abolished. This the small states opposed, contending that it would reduce them to a state of subordination. There was such a division that a dissolution of the Convention appeared unavoidable, unless some conciliatory measure was adopted. A committee of the states was then appointed, to agree upon some plan for removing the embarrassment. They recommended, in their report, the inequality of representation, which is the groundwork of the section under debate. With respect to the ratio of representation, it was at first determined that it should be one for forty thousand. In this situation the subject stood when I left the Convention. The objection to a numerous representation, on account of the expense, was not considered as a matter of importance: other objections to it, however, were fully discussed; but no question was taken.

Sir, I rose only to state this subject in the point of view in which it appeared to me: I shall, however, since I am up, pay some attention to the arguments which have been advanced. It is acknowledged that this clause may be so construed, as that, if the people of the smallest state shall amount to fifty thousand, this number may be taken as the ratio. What, then, is to control the general government? If I understand the gentlemen right, they grant that, by the plain construction of the clause, Congress may fix the ratio as high as they please: if so, they will have no other control than the precarious operation of interest. Now, the very argument of the gentlemen on the point of interest seems to imply that it will be the interest of the small states to limit the representation; for these states, like Delaware, not increasing, will be interested in allowing the growing states as small a number of representatives as possible, in proportion to their own. If, then, it be the interest of the

larger states to augment the representation, it will be equally the interest of the smaller states to diminish it; and their equal suffrage in the *Senate* will enable them to oppose the policy of the large states with success.

In the discussion of this subject, it has been found necessary to bring several objections into view, which will not be very strongly insisted on. The gentleman who suggested them declared that he did not intend they should embarrass or prolong the debates. He only mentioned them to show that it would be our disposition to conciliate in certain points of inferior magnitude, provided we could secure such essential rights of the people as we supposed this Constitution would have a tendency to infringe. The question has been fully discussed; and I believe few new lights can be thrown on it. Much time will be spent, if we pursue the investigation in so slow and minute a manner. However, if the subject can receive any further elucidation, I shall not think the time lost.

Hon. Mr. HAMILTON. It is not my design, Mr. Chairman, to extend this debate by any new arguments on the general subject. I have delivered my sentiments so fully on what has been advanced by the gentlemen this morning, that any further reasoning from me will be easily dispensed with. I only rise to state a fact with respect to the motives which operated in the general Convention. I had the honor to state to the committee the diversity of interests which prevailed between the navigating and non-navigating, the large and the small states, and the influence which those states had upon the conduct of each. It is true, a difference did take place between the large and the small states, the latter insisting on equal advantages in the House of Representatives. Some private business calling me to New York, I left the Convention for a few days: on my return, I found a plan, reported by the committee of details; and soon after, a motion was made to increase the number of representatives. On this occasion, the members rose from one side and the other, and declared that the plan reported was entirely a work of accommodation, and that to make any alterations in it would destroy the Constitution. I discovered that several of the states, particularly New Hampshire, Connecticut, and New Jersey, thought it would be difficult to send a great number of delegates from the extremes of

the continent to the national government: they apprehended their constituents would be displeased with a very expensive government; and they considered it as a formidable objection. After some debate on this motion, it was withdrawn. Many of the facts stated by the gentleman and myself are not substantially different. The truth is, the plan, in all its parts, was a plan of accommodation.

Mr. LANSING. I will enter no further into a discussion of the motives of the Convention; but there is one point in which the gentleman and myself do not agree. The committee of details recommend an equality in the Senate. In addition to this, it was proposed that every forty thousand should send one representative to the general legislature. Sir, if it was a system of accommodation, and to remain untouched, how came that number afterwards to be reduced to thirty thousand?

Mr. HAMILTON. I recollect well the alteration which the gentleman alludes to; but it by no means militates against my idea of the principles on which the Convention acted, at the time the report of the committee was under deliberation. This alteration did not take place till the Convention was near rising, and the business completed; when his excellency, the president, expressing a wish that the number should be reduced to thirty thousand, it was agreed to without opposition.

Mr. Chancellor LIVINGSTON. The gentleman from Duchess appears to have misapprehended some of the ideas which dropped from me. My argument was, that a republic might very properly be formed by a league of states, but that the laws of the general legislature must act, and be enforced upon individuals. I am contending for this species of government. The gentlemen who have spoken in opposition to me have either misunderstood or perverted my meaning; but, sir, I flatter myself it has not been misunderstood by the Convention at large.

If we examine the history of federal republics, whose legislative powers were exercised only in states, in their collective capacity, we shall find in their fundamental principles the seeds of domestic violence and consequent annihilation. This was the principal reason why I thought the old Confederation would be forever impracticable.

Much has been said, sir, about the number which ought

to compose the House of Representatives ; and the question has been debated with great address by the gentlemen on both sides of the house. It is agreed that the representative body should be so small as to prevent the disorder inseparable from the deliberations of a mob, and yet sufficiently numerous to represent the interests of the people, and to be a safe depository of power. There is, unfortunately, no standard by which we can determine this matter. Gentlemen who think that a hundred may be the medium, in which the advantages of regular deliberation and the safety of the people are united, will probably be disposed to support the plan as it stands ; others, who imagine that no number less than three or four hundred can insure the preservation of liberty, will contend for an alteration. Indeed, these effects depend so much upon contingency, and upon circumstances totally unconnected with the idea of numbers, that we ought not to be surprised at the want of a standing criterion. On so vague a subject, it is very possible that the opinions of no two gentlemen in this Assembly, if they were governed by their own original reflections, would entirely coincide. I acknowledge myself one of those who suppose the number expressed in the Constitution to be about the proper medium ; and yet future experience may induce me to think it too small or too large. When I consider the objects and powers of the general government, I am of opinion that one hundred men may at all times be collected of sufficient information and integrity to manage well the affairs of the Union. Some gentlemen suppose that, to understand and provide for the general interests of commerce and manufactures, our legislators ought to know how all commodities are produced, from the first principle of vegetation to the last polish of mechanical labor ; that they ought to be minutely acquainted with all the process of all the arts. If this were true, it would be necessary that a great part of the British House of Commons should be woollen-drapers ; yet we seldom find such characters in that celebrated assembly.

As to the idea of representing the feelings of the people, I do not entirely understand it, unless by their feelings are meant their interests. They appear to me to be the same thing. But if they have feelings which do not rise out of their interests, I think they ought not to be represented. What shall the unjust, the selfish, the unsocial feelings, be

represented? Shall the vices, the infirmities, the passions, of the people, be represented? Government, sir, would be a monster; laws made to encourage virtue and maintain peace would have a preposterous tendency to subvert the authority and outrage the principles on which they were founded; besides, the feelings of the people are so variable and inconstant, that our rulers should be chosen every day: people have one sort of feeling to-day, another to-morrow, and the voice of the representative must be incessantly changing in correspondence with these feelings. This would be making him a political weathercock.

The honorable gentleman from Duchess, [Mr. Smith,] who has so copiously declaimed against all declamation, has pointed his artillery against the rich and the great. I am not interested in defending rich men: but what does he mean by telling us that the rich are vicious and intemperate? Will he presume to point out to us the class of men in which intemperance is not to be found? Is there less intemperance in feeding on beef than on turtle? or in drinking rum than wine? I think the gentleman does not reason from facts. If he will look round among the rich men of his acquaintance, I fancy he will find them as honest and virtuous as any class in the community. He says the rich are unfeeling; I believe they are less so than the poor; for it seems to me probable that those who are most occupied by their own cares and distresses have the least sympathy with the distresses of others. The sympathy of the poor is generally selfish, that of the rich a more disinterested emotion.

The gentleman further observes, that ambition is peculiarly the vice of the wealthy. But have not all classes of men their objects of ambition? Will not a poor man contend for a constable's staff with as much assiduity and eagerness as a man of rank will aspire to the chief magistracy? The great offices in the state are beyond the view of the poor and ignorant man: he will therefore contemplate an humbler office as the highest alluring object of ambition; he will look with equal envy on a successful competitor, and will equally sacrifice to the attainment of his wishes the duty he owes to his friends or to the public. But, says the gentleman, the rich will be always brought forward; they will exclusively enjoy the suffrages of the people. For my

own part, I believe that, if two men of equal abilities set out together in life, one rich, the other of small fortune, the latter will generally take the lead in your government. The rich are ever objects of envy; and this, more or less, operates as a bar to their advancement. What is the fact? Let us look around us: I might mention gentlemen in office who have not been advanced for their wealth; I might instance, in particular, the honorable gentleman who presides over this state, who was not promoted to the chief magistracy for his riches, but his virtue.

The gentleman, sensible of the weakness of this reasoning, is obliged to fortify it by having recourse to the phantom aristocracy. I have heard much of this. I always considered it as the bugbear of the party. We are told that, in every country, there is a natural aristocracy, and that this aristocracy consists of the rich and the great: nay, the gentleman goes further, and ranks in this class of men the wise, the learned, and those eminent for their talents or great virtues. Does a man possess the confidence of his fellow-citizens for having done them important services? He is an aristocrat. Has he great integrity? Such a man will be greatly trusted: he is an aristocrat. Indeed, to determine what one is an aristocrat, we need only be assured he is a man of merit. But I hope we have many such. I hope, then, we are all aristocrats. So sensible am I of that gentleman's talents, integrity, and virtue, that we might at once call him the first of the nobles, the very prince of the Senate. But whom, in the name of common sense, will we have to present us? Not the rich, for they are sheer aristocrats. Not the learned, the wise, the virtuous, for they are all aristocrats. Whom then? Why, those who are not virtuous; those who are not wise; those who are not learned: these are the men to whom alone we can trust our liberties. He says further, we ought not to choose these aristocrats, because the people will not have confidence in them; that is, the people will not have confidence in those who best deserve and most possess their confidence. He would have his government composed of other classes of men: where will we find them? Why, he must go out into the highways, and pick up the rogue and the robber; he must go to the hedges and ditches, and bring in the poor, the blind, and the lame. As the gentleman has thus settled the definition of aristoc

racy, I trust that no man will think it a term of reproach; for who among us would not be wise? Who would not be virtuous? Who would not be above want? How, again, would he have us to guard against aristocracy? Clearly by doubling the representation, and sending twelve aristocrats instead of six. The truth is, in these republican governments, we know no such ideal distinctions. We are all equally aristocrats. Offices, emoluments, honors, are open to all.

Much has been said by the gentleman about corruption: he calculates that twenty-four may give the voice of Congress; that is, they will compose a bare majority of a bare quorum of both houses. He supposes here the most singular, and I might add, the most improbable combination of events. First, there is to be a power in the government who has the means, and whose interest it is to be corrupt. Next, twenty-four men are to compose the legislature; and these twenty-four, selected by their fellow-citizens as the most virtuous, are a body, in violation of their oath and their real interests, to be corrupted. Then he supposes the virtuous minority inattentive, regardless of their own honor, and the good of their country; making no alarm, no struggle; a whole people suffering the injury of a ruinous law, yet ignorant, inactive, and taking no measures to redress the grievance.

Let us take a view of the present Congress. The gentleman is satisfied with our present federal government, on the score of corruption. Here he has confidence. Though each state may delegate seven, they generally send no more than three; consequently thirty-nine men may transact any business under the old government; while the new legislature, which will be, in all probability, constantly full, will consist of ninety-one. But, say the gentlemen, our present Congress have not the same powers. I answer, They have the very same. Congress have the power of making war and peace, of levying money and raising men; they may involve us in a war at their pleasure; they may negotiate loans to any extent, and make unlimited demands upon the states. Here the gentleman comes forward, and says that the states are to carry these powers into execution; that they have the power of non-compliance. But is not every state bound to comply? What power have they to control Congress in the exercise of those rights which they

pledged themselves to support? It is true they have broken, in numerous instances, the compact by which they were obligated; and they may do it again; but will the gentleman draw an argument of security from the facility of violating their faith? Suppose there should be a majority of creditor states, under the present government; might they not combine, and compel us to observe the covenant by which we had bound ourselves?

We are told that this Constitution gives Congress the power over the purse and the sword. Sir, have not all good governments this power? Nay, does any one doubt that, under the old Confederation, Congress holds the purse and the sword? How many loans did they procure, which we are bound to pay! How many men did they raise, whom we are bound to maintain! How will gentlemen say, that that body, which is indeed extremely small, can be more safely trusted than a much larger body, possessed of the same authority? What is the ground of such entire confidence in the one — what the cause of so much jealousy of the other?

An honorable member from New York has viewed the subject of representation in a point of light which had escaped me, and which I think clear and conclusive. He says, that the state of Delaware must have one; and, as that state will not probably increase for a long time, it will be the interest of the larger states to determine the ratio by what Delaware contains. The gentlemen in opposition say, suppose Delaware contains fifty thousand, why not fix the ratio at sixty thousand? Clearly, because by this the other states will give up a sixth part of their interests. The members of Congress, also, from a more private motive, will be induced to augment the representation. The chance of their own reelection will increase with the number of their colleagues.

It has been further observed that the sense of the people is for a larger representation, and that this ought to govern us — that the people generally are of opinion, that even our House of Assembly is too small. I very much doubt this fact. As far as my observation has extended, I have found a very different sentiment prevail. It seems to be the predominant opinion of our state government; and I presume that the people have as much confidence in their Senate of

twenty-four as in their Assembly of sixty-five. All these considerations have united to give my mind the most perfect conviction, that the number specified in the Constitution is fully adequate to the present wants of the country, and that this number will be increased to the satisfaction of the most timid and jealous.

Hon. Mr. SMITH. I did not intend to make any more observations on this article. Indeed, I have heard nothing to-day which has not been suggested before, except the polite reprimand I have received for my declamation. I should not have risen again, but to examine who has proved himself the greatest declaimer. The gentleman wishes me to describe what I meant by representing the feelings of the people — If I recollect right, I said the representative ought to understand and govern his conduct by the true interest of the people. I believe I stated this idea precisely. When he attempts to explain my ideas, he explains them away to nothing; and, instead of answering, he distorts, and then sports with them. But he may rest assured that, in the present spirit of the Convention, to irritate is not the way to conciliate. The gentleman, by the false gloss he has given to my argument, makes me an enemy to the rich: this is not true. All I said was, that mankind were influenced, in a great degree, by interests and prejudices; that men, in different ranks of life, were exposed to different temptations, and that ambition was more peculiarly the passion of the rich and great. The gentleman supposes the poor have less sympathy with the sufferings of their fellow-creatures, for that those who feel most distress themselves, have the least regard to the misfortunes of others. Whether this be reasoning or declamation, let all who hear us determine. I observed, that the rich were more exposed to those temptations which rank and power hold out to view; that they were more luxurious and intemperate, because they had more fully the means of enjoyment; that they were more ambitious, because more in the hope of success. The gentleman says my principle is not true, for that a poor man will be as ambitious to be a constable as a rich man to be governor; but he will not injure his country so much by the party he creates to support his ambition.

The next object of the gentleman's ridicule is my idea of an aristocracy; and, indeed, he has done me the honor

thank me in the order. If, then, I am an aristocrat, and yet publicly caution my countrymen against the encroachments of the aristocrats, they will surely consider me as one of the most disinterested friends. My idea of aristocracy is not new; it is embraced by many writers on government. I would refer the gentleman for a definition of it to the Hon. JOHN ADAMS, one of our natural aristocrats. This writer will give him a description the most ample and satisfactory. But I by no means intended to carry my idea of it to such ridiculous length as the gentleman would have me; nor will any of my expressions warrant the construction he imposes on them. My argument was, that, in order to have a true and genuine representation, you must receive the middle class of people into your government, such as compose the body of this assembly. I observed that a representation from the United States could not be so constituted as to represent completely the feelings and interests of the people; but that we ought to come as near this object as possible. The gentlemen say, that the exactly proper number of representatives is so indeterminate and vague, that it is impossible for them to ascertain it with any precision. But surely they are able to see the distinction between twenty and thirty. I acknowledge that a complete representation would make the legislature too numerous; and therefore it is our duty to limit the powers, and form the checks on the government, in proportion to the smallness of the number.

The honorable gentleman next animadverts on my apprehensions of corruption, and instances the present Congress, to prove an absurdity in my argument. But is this fair reasoning? There are many material checks to the operations of that body, which the future Congress will not have. In the first place, they are chosen annually. What more powerful check? They are subject to *recall*. Nine states must agree to any important resolution, which will not be carried into execution till it meets the approbation of the people in the state legislatures. Admitting what he says, that they have pledged their faith to support the acts of Congress, yet, if these be contrary to the essential interests of the people, they ought not to be acceded to; for they are not bound to obey any law which tends to destroy them.

It appears to me that, had economy been a motive for making the representation small, it might have operated

more properly in leaving out some of the offices which this Constitution requires. I am sensible that a great many of the common people, who do not reflect, imagine that a numerous representation involves a great expense ; but they are not aware of the real security it gives to an economical management in all the departments of government.

The gentleman further declared that, as far as his acquaintance extended, the people thought sixty-five a number fully large enough for our state Assembly ; and hence inferred that sixty-five is to two hundred and forty thousand as sixty-five is to three millions. This is curious reasoning.

I feel that I have troubled the committee too long. I should not have risen again upon this subject, had not my ideas been grossly misrepresented.

The Hon. Mr. JAY. I will make a few observations on this article, Mr. Chairman, though I am sensible it may not appear very useful to travel over the field which has been already so fully explored.

Sir, it seems to be, on all sides, agreed that a strong, energetic federal government is necessary for the United States.

It has given me pleasure to hear such declarations come from all parts of the house. If gentlemen are of this opinion, they give us to understand that such a government is the favorite of their desire ; and also that it can be instituted ; that, indeed, it is both necessary and practicable ; or why do they advocate it ?

The gentleman last on the floor has informed us that, according to his idea of a complete representation, the extent of our country is too great for it. [Here he called on Mr. Smith, to know if he had mistaken him ; who replied, My idea is not that a proper representation for a strong federal government is unattainable ; but that such a representation, under the proposed Constitution, is impracticable.] Sir, continued Mr. Jay, I now understand the gentleman in a different sense : however, what I shall say will reach equally his explanation. I take it that no federal government is worth having, unless it can provide for the general interests of the United States. If this Constitution be so formed as to answer these purposes, our object is obtained. The providing for the general interests of the Union requires certain powers in government, which the gentleman seems to be willing it should possess ; that is, the important pow-

ers of war and peace. These powers are peculiarly interesting; their operation reaches objects the most dear to the people; and every man is concerned in them; yet, for the exercise of these powers the gentleman does not think a very large representation necessary. But, sir, if the proposed Constitution provides for a representation adequate to the purposes I have described, why not adequate to all other purposes of a federal government? The adversaries of the plan seem to consider the general government as possessing all the minute and local powers of the state governments. The direct inference from this, according to their principle, would be, that the federal representation should be proportionably large. In this state, as the gentleman says, we have sixty-five. If the national representation is to be extended in proportion, what an unwieldy body shall we have! If the United States contain three millions of inhabitants, in this ratio, the Congress must consist of more than eight hundred. But, sir, let us examine whether such a number is necessary or reasonable. What are the objects of our state legislatures? Innumerable things of small moment occupy their attention; matters of a private nature, which require much minute and local information. The objects of the general government are not of this nature. They comprehend the interests of the states in relation to each other, and in relation to foreign powers. Surely there are men in this state fully informed of the general interests of its trade, its agriculture, its manufactures. Is any thing more than this necessary? Is it requisite that our representatives in Congress should possess any particular knowledge of the local interests of the county of Suffolk, distinguished from those of Orange and Ulster? The Senate is to be composed of men appointed by the state legislatures: they will certainly choose those who are most distinguished for their general knowledge. I presume they will also instruct them, that there will be a constant correspondence supported between the senators and the state executives, who will be able, from time to time, to afford them all that particular information which particular circumstances may require. I am in favor of large representations: yet, as the minds of the people are so various on this subject, I think it best to let things stand as they are. The people in Massachusetts are satisfied with two hundred: many

others suppose either number unnecessarily large. There is no point on which men's opinions vary more materially. If the matter be doubtful,—and much may be rationally said on both sides,—gentlemen ought not to be very strenuous on such points. The Convention who decided this question took all these different opinions into consideration, and were directed by a kind of necessity of mutual accommodation, and by reasons of expediency; it would therefore be unfair to censure them. Were I asked if the number corresponds exactly with my own private judgment, I should answer, No. But I think it is best, under our present circumstances, to acquiesce. Yet, sir, if I could be convinced that danger would probably result from so small a number, I should certainly withhold my acquiescence. But whence will this danger arise? Sir, I am not fearful of my countrymen: we have yet known very little of corruption: we have already experienced great distresses and difficulties; we have seen perilous times, when it was the interest of Great Britain to hold out the most seducing temptations to every man worth gaining. I mention this as a circumstance to show that, in case of a war with any foreign power, there can be little fear of corruption; and I mention it to the honor of the American character. At the time I allude to, how many men had you in Congress? Generally fewer than sixty-five.

Sir, all the arguments offered on the other side serve to show that it will be easier to corrupt under the old than under the new government: such arguments, therefore, do not seem to answer the gentleman's purpose. In the federal government, as it now stands, there are but thirteen votes, though there may be sixty or seventy voices. Now, what is the object of corruption? To gain votes. In the new government there are to be ninety-one votes. Is it easier to buy many than a few? In the present Congress, you cannot declare war, make peace, or do any other important act, without the concurrence of nine states. There are rarely more than nine present. A full Congress is an extraordinary thing. Is it necessary to declare war, or pass a requisition of money to support it? A foreign prince says, this will be against my interest; I must prevent it. How? By having recourse to corruption. If there are eleven states on the floor, it will be necessary to corrupt three. What

measure shall I take? Why, it is common for each state to have no more than two members in Congress. I will take off one, and the vote of that state is lost. I will take off three, and their most important plan is defeated. Thus, in the old government, it is only necessary to bribe the few; in the new government, it is necessary to corrupt the many. Where lies the greater security? The gentleman says, the election is annual, and you may recall your delegate when you please. But how are you to form your opinion of his conduct? He may excuse himself from acting without giving any reason. Nay, on a particular emergency, he has only to go home, for which he may have a thousand plausible reasons to offer, and you have no mode of compelling his attendance. To detect corruption is at all times difficult, but, under these circumstances, it appears almost impossible. I give out these hints to show that, on the score of corruption, we have much the best chance under the new Constitution; and that, if we do not reach perfection, we certainly change for the better. But, sir, suppose corruption should infect one branch of the government,—for instance, the House of Representatives; what a powerful check you have in the Senate! You have a double security; you have two chances in your favor to one against you. The two houses will naturally be in a state of rivalry: this will make them always vigilant, quick to discern a bad measure, and ready to oppose it. Thus the chance of corruption is not only lessened by an increase of the number, but vastly diminished by the necessity of concurrence. This is the peculiar excellence of a division of the legislature.

Sir, I argue from plain facts. Here is no sophistry, no construction, no false glosses, but simple inferences from the obvious operation of things. We did not come here to carry points. If the gentleman will convince me I am wrong, I will submit. I mean to give my ideas frankly upon the subject. If my reasoning is not good, let them show me the folly of it. It is from this reciprocal interchange of ideas that the truth must come out. My earnest wish is, that we may go home attended with the pleasing consciousness that we have industriously and candidly sought the truth, and have done our duty. I cannot conclude without repeating that, though I prefer a large representation, yet, considering our present situation, I see abundant reason to acquiesce in

the wisdom of the general Convention, and to rest satisfied that the representation will increase in a sufficient degree to answer the wishes of the most zealous advocate for liberty.

The Hon. Mr. SMITH rose, and said, it appeared to him probable that it would be the interest of the state having the least number of inhabitants to make its whole number the measure of the representation; that it would be the interest of Delaware, supposing she has forty thousand, and consequently only one vote, to make this whole number the ratio; so if she had fifty thousand, or any number under sixty thousand. The interest also of some other of the small states would correspond with hers; and thus the representation would be reduced in proportion to the increase of Delaware. He still insisted that the number of representatives might be diminished.

He would make one observation more upon the gentleman's idea of corruption. His reasoning, he said, went only to prove that the present Congress might be restrained from doing good by the wilful absence of two or three members. It was rare, he said, that the people were oppressed by a government's not doing; and little danger to liberty could flow from that source.

After some further desultory conversation on this point, the committee rose, and the Convention adjourned.

TUESDAY, June 24th, 1788. — Convention assembled; and being resolved into a committee, the 1st paragraph of the 3d section of the 1st article was read; when Mr. G. LIVINGSTON rose, and addressed the chair.

He, in the first place, considered the importance of the *Senate* as a branch of the legislature, in three points of view: —

First, they would possess legislative powers coëxtensive with those of the House of Representatives except with respect to originating revenue laws; which, however, they would have power to reject or amend, as in the case of other bills. Secondly, they would have an importance, even exceeding that of the representative house, as they would be composed of a smaller number, and possess more firmness and system. Thirdly, their consequence and dignity would still further transcend those of the other branch, from their longer continuance in office. These powers, Mr. Livingston contended, rendered the Senate a dangerous body.

He went on, in the second place, to enumerate and animadvert on the powers with which they were clothed in their judicial capacity, and in their capacity of council to the President, and in the forming of treaties. In the last place, as if too much power could not be given to this body, they were made, he said, a council of appointment, by whom ambassadors and other officers of state were to be appointed. These are the powers, continued he, which are vested in this small body of twenty-six men; in some cases, to be exercised by a bare quorum, which is fourteen; a majority of which number, again, is eight. What are the checks provided to balance this great mass of power? Our present Congress cannot serve longer than three years in six; they are at any time subject to recall. These and other checks were considered as necessary at a period which I choose to honor with the name of *virtuous*. Sir, I venerate the spirit with which every thing was done at the trying time in which the Confederation was formed. America had then a sufficiency of this virtue to resolve to resist perhaps the first nation in the universe, even unto bloodshed. What was her aim? Equal liberty and safety. What ideas had she of this equal liberty? Read them in her Articles of Confederation. True it is, sir, there are some powers wanted to make this glorious compact complete. But, sir, let us be cautious that we do not err more on the other hand, by giving power too profusely, when, perhaps, it will be too late to recall it. Consider, sir, the great influence which this body, armed at all points, will have. What will be the effect of this? Probably a security of their reëlection, as long as they please. Indeed, in my view, it will amount nearly to an appointment for life. What will be their situation in a federal town? Hallowed ground! Nothing so unclean as state laws to enter there, surrounded, as they will be, by an impenetrable wall of adamant and gold, the wealth of the whole country flowing into it. [Here a member, who did not fully understand, called out to know what WALL the gentleman meant; on which he turned, and replied, "A wall of gold — of adamant, which will flow in from all parts of the continent." At which flowing metaphor, a great laugh in the house.] The gentleman continued: Their attention to their various business will probably require their constant attendance. In this Eden will they reside with their fami-

lies, distant from the observation of the people. In such a situation, men are apt to forget their dependence, lose their sympathy, and contract selfish habits. Factions are apt to be formed, if the body becomes permanent. The senators will associate only with men of their own class, and thus become strangers to the condition of the common people. They should not only return, and be obliged to live with the people, but return to their former rank of citizenship, both to revive their sense of dependence, and to gain a knowledge of the country. This will afford opportunity to bring forward the genius and information of the states, and will be a stimulus to acquire political abilities. It will be the means of diffusing a more general knowledge of the measures and spirit of the administration. These things will confirm the people's confidence in government. When they see those who have been high in office residing among them as private citizens, they will feel more forcibly that the government is of their own choice. The members of this branch having the idea impressed on their minds, that they are soon to return to the level whence the suffrages of the people raised them, — this good effect will follow: they will consider their interests as the same with those of their constituents, and that they legislate for themselves as well as others. They will not conceive themselves made to receive, enjoy, and rule, nor the people solely to earn, pay, and submit.

Mr. Chairman, I have endeavored, with as much perspicuity and candor as I am master of, shortly to state my objections to this clause. I would wish the committee to believe that they are not raised for the sake of opposition, but that I am very sincere in my sentiments in this important investigation. The Senate, as they are now constituted, have little or no check on them. Indeed, sir, too much is put into their hands. When we come to that part of the system which points out their powers, it will be the proper time to consider this subject more particularly.

I think, sir, we must relinquish the idea of safety under this government, if the time for services is not further limited, and the power of recall given to the state legislatures. I am strengthened in my opinion by an observation made yesterday, by an honorable member from New York, to this effect — “that there should be no fear of corruption of the members

n the House of Representatives ; especially as they are, in two years, to return to the body of the people." I therefore move that the committee adopt the following resolution, as an amendment to this clause : —

" Resolved, That no person shall be eligible as a senator for more than six years in any term of twelve years, and that it shall be in the power of the legislatures of the several states to recall their senators, or either of them, and to elect others in their stead, to serve for the remainder of the time for which such senator or senators, so recalled, were appointed."

Hon. Mr. LANSING. I beg the indulgence of the committee, while I offer some reasons in support of the notion just made ; in doing which, I shall confine myself to the point, and shall hear with attention, and examine with candor, the objections which may be opposed to it.

The representation of the United States, by the proposed system, is vested in two bodies. On the subject of one of these, we have debated several days, and now come to the organization and powers of the other. I believe it was undoubtedly the intention of the framers of this Constitution to make the lower house the proper, peculiar representative of the interests of the people ; the Senate, of the sovereignty of the states.

Some very important powers are given to the latter, to be executed without the concurrence of the representative house. Now, if it was the design of the plan to make the Senate a kind of bulwark to the independence of the states, and a check to the encroachments of the general government, certainly the members of this body ought to be peculiarly under the control, and in strict subordination to the state who delegated them. In proportion to their want of dependence, they will lose their respect for the power from whom they receive their existence, and, consequently, will disregard the great object for which they are instituted. The idea of rotation has been taken from the articles of the old Confederation. It has thus far, in my opinion, operated with great advantage. The power of recall, too, has been an excellent check, though it has, in fact, never been exercised. The thing is of so delicate a nature, that few men will step forward to move a recall, unless there is some strong ground for it.

Sir, I am informed by gentlemen who have been conver-

sant in public affairs, and who have had seats in Congress, that there have been, at different times, violent parties in that body — an evil that a change of members has contributed, more than any other thing, to remedy. If, therefore, the power of recall should be never exercised, if it should have no other force than that of a check to the designs of the bad, and to destroy party spirit, certainly no harm, but much good, may result from adopting the amendment. If my information be true, there have been parties in Congress which would have continued to this day, if the members had not been removed. No inconvenience can follow from placing the powers of the Senate on such a foundation as to make them feel their dependence. It is only a check calculated to make them more attentive to the objects for which they were appointed. Sir, I would ask, Is there no danger that the members of the Senate will sacrifice the interest of their state to their own private views? Every man in the United States ought to look with anxious concern to that body. Their number is so exceedingly small, that they may easily feel their interests distinct from those of the community. This smallness of number also renders them subject to a variety of accidents, that may be of the highest disadvantage. If one of the members is sick, or if one or both are prevented occasionally from attending, who are to take care of the interests of their state?

Sir, we have frequently observed that deputies have been appointed for certain purposes, who have not punctually attended to them, when it was necessary. Their private concerns may often require their presence at home. In what manner is this evil to be corrected? The amendment provides a remedy. It is the only thing which can give the states a control over the Senate. It will be said, there is a power in Congress to compel the attendance of absent members; but will the members from the other states be solicitous to compel such attendance, except to answer some particular view, or promote some interest of their own? If it be the object of the senators to protect the sovereignty of their several states, and if, at any time, it be the design of the other states to make encroachments on the sovereignty of any one state, will it be for their interest to compel the members from this state to attend, in order to oppose and check them? This would be strange policy indeed.

A number of other reasons might be adduced on this point ; but those which have been advanced are sufficient, I imagine, to convince the committee that such a provision is necessary and proper. If it be not adopted, the interests of any one state may be easily sacrificed to the ambition of the others, or to the private advantage of individuals.

Mr. R. R. LIVINGSTON. The amendment appears to have in view two objects — that a rotation shall be established in the Senate, and that its members shall be subject to recall by the state legislatures. It is not contended that six years are too long a time for the senators to remain in office. Indeed, this cannot be objected to, when the purposes for which this body is instituted are considered. They are to form treaties with foreign nations. This requires a comprehensive knowledge of foreign politics, and an extensive acquaintance with characters, whom, in this capacity, they have to negotiate with, together with such an intimate conception of our best interests, relative to foreign powers, as can only be derived from much experience in this business. What singular policy, to cut off the hand which has just qualified itself for action ! But, says the gentleman, as they are the representatives of the states, those states have a control. Will this principle hold good ? The members of the lower house are the representatives of the people. Have the people any power to recall them ? What would be the tendency of the power contended for ? Clearly this : The state legislatures, being frequently subject to factious and irregular passions, may be unjustly disaffected and discontented with their delegates ; and a senator may be appointed one day and recalled the next. This would be a source of endless confusion. The Senate are indeed designed to represent the state governments ; but they are also the representatives of the United States, and are not to consult the interest of any one state alone, but that of the Union. This could never be done, if there was a power of recall ; for sometimes it happens that small sacrifices are absolutely indispensable for the good and safety of the confederacy ; but, if a senator should presume to consent to these sacrifices, he would be immediately recalled. This reasoning turns on the idea that a state, not being able to comprehend the interest of the whole, would, in all instances, adhere to her own, even to the hazard of the Union.

I should disapprove of this amendment, because it would open so wide a door for faction and intrigue, and afford such scope for the arts of an evil ambition. A man might go to the Senate with an incorruptible integrity, and the strongest attachment to the interest of his state. But if he deviated, in the least degree, from the line which a prevailing *party* in a popular assembly had marked for him, he would be immediately recalled. Under these circumstances, how easy would it be for an ambitious, factious demagogue to misrepresent him, to distort the features of his character, and give a false color to his conduct! How easy for such a man to impose upon the public, and influence them to recall and disgrace their faithful delegate! The general government may find it necessary to do many things which some states might never be willing to consent to. Suppose Congress should enter into a war to protect the fisheries, or any of the northern interests; the Southern States, loaded with their share of the burden which it would be necessary to impose, would condemn their representatives in the Senate for acquiescing in such a measure. There are a thousand things which an honest man might be obliged to do, from a conviction that it would be for the general good, which would give great dissatisfaction to his constituents.

Sir, all the arguments drawn from an imaginary prospect of corruption have little weight with me. From what source is this corruption to be derived? One gentleman tells you that this dreadful Senate is to be surrounded by a wall of adamant — of gold, and that this wall is to be a liquid one, and to flow in from all quarters. Such arguments as these seem rather the dreamings of a distempered fancy, than the cool, rational deductions of a deliberate mind. Whence is this corruption to be derived? Are the people to corrupt the senators with their own gold? Is *bribery* to enter the *federal city*, with the amazing influx of adamant the gentleman so pathetically contemplates? Are not Congress to publish, from time to time, an account of their receipts and expenditures? Can there be any appropriation of money by the Senate, without the concurrence of the Assembly? And can we suppose that a majority of both houses can be corrupted? At this rate we must suppose a miracle indeed.

But to return: The people are the best judges who ought to represent them. To dictate and control them, to tell

them whom they shall not elect, is to abridge their natural rights. This rotation is an absurd species of ostracism—a mode of proscribing eminent merit, and banishing from positions of trust those who have filled them with the greatest usefulness. Besides, it takes away the strongest stimulus to public virtue—the hope of honors and rewards. The acquisition of abilities is hardly worth the trouble, unless one is to enjoy the satisfaction of employing them for the good of one's country. We all know that experience is indispensably necessary to good government. Shall we, then, drive experience into obscurity? I repeat that this is an absolute abridgment of the people's rights.

As to the Senate's rendering themselves perpetual, or establishing such a power as to prevent their being removed, it appears to me chimerical. Can they make interest with their legislatures, who are themselves varying every year, sufficient for such a purpose? Can we suppose two senators will be able to corrupt the whole legislature of this state? The idea, I say, is chimerical. The thing is impossible.

Hon. Mr. LANSING. The objects of this amendment are, first, to place the senators in such a situation of dependence on their several state legislatures, as will induce them to pay a constant regard to the good of their constituents; secondly, to oblige them to return, at certain periods, to their fellow-citizens, that, by mingling with the people, they may recover that knowledge of their interests, and revive that sympathy with their feelings, which power and an exalted station are too apt to efface from the minds of rulers.

It has been urged that the senators should be acquainted with the interests of the states in relation to each other, and to foreign powers, and that they should remain in office, in order to acquire extensive political information. If these were the only objects, the argument would extend to the rendering their dignity perpetual—an idea which probably none of the gentlemen will consent to; but, if one third of the senators go out every two years, cannot those who succeed them acquire information from the remaining members, with respect to the relative interests of the states? It is to be presumed that the Senate will be composed of the best informed men, and that no such men will be incapable of comprehending the interests of the states either singly or collectively. If it be the design of representation that the sense

and spirit of the people's interests and feelings should be carried into the government, it is obvious that this design can be accomplished in no way so perfectly as by obliging our rulers, at certain periods, to relinquish their offices and rank. The people cannot be represented by men who are perpetually separated from them.

It is asked, Why not place the senators in the same situation as the representatives? or, Why not give the people a power of recall? Because, sir, this is impracticable, and contrary to the first principles of representative government. There is no regular way of collecting the people's sentiments. But a power in the state legislatures to recall their senators, is simple and easy, and will be attended with the highest advantages.

An honorable gentleman, who has spoken largely on the preceding question, has acknowledged that a variety of views, and great diversity of sentiment, prevailed in the federal Convention; that particularly there was a difference of interest between the navigating and non-navigating states. The same opposition of interests will probably ever remain; and the members of Congress will retain the same disposition to regard as their principal object the genuine good of their respective states. If they do not, if they presume to sacrifice the fundamental advantages of their state, they betray the confidence reposed in them, and violate their duty. I wish gentlemen would uniformly adhere to the distinction between the grand design of the House of Representatives and that of the Senate. Does not one represent the individuals, the people of a state, and the other its collective sovereignty? This distinction is properly noticed, when it is convenient and useful to the gentlemen's argument; but when it stands in their way, it is easily passed by and disregarded.

Sir, it is true there have been no instances of the success of corruption under the old Confederation; and may not this be attributed to the power of recall, which has existed from its first formation? It has operated effectually, though silently. It has never been exercised, because no great occasion has offered. The power has by no means proved a discouragement to individuals, in serving their country. A seat in Congress has always been considered a distinguished honor, and a favorite object of ambition: I believe no public

station has been sought with more avidity. If this power has existed for so many years, and through so many scenes of difficulty and danger, without being exerted, may it not be rationally presumed that it never will be put in execution, unless the indispensable interest of a state shall require it? I am perfectly convinced that, in many emergencies, mutual concessions are necessary and proper; and that, in some instances, the smaller interests of the states should be sacrificed to great national objects. But when a delegate makes such sacrifices as tend to political destruction, or to reduce sovereignty to subordination, his state ought to have the power of defeating his design, and reverting to the people. It is observed, that the appropriation of money is not in the power of the Senate alone; but, sir, the exercise of certain powers, which constitutionally and necessarily involve the disposal of money, belongs to the Senate: they have, therefore, a right of disposing of the property of the United States. If the Senate declare war, the lower house must furnish the supplies.

It is further objected to this amendment, that it will restrain the people from choosing those who are most deserving of their suffrages, and will thus be an abridgment of their rights. I cannot suppose this last inference naturally follows. The rights of the people will be best supported by checking, at a certain point, the current of popular favor, and preventing the establishment of an influence which may leave to elections little more than the form of freedom. The Constitution of this state says, that no man shall hold the office of sheriff or coroner beyond a certain period. Does any one imagine that the rights of the people are infringed by this provision? The gentlemen, in their reasoning on the subject of corruption, seem to set aside experience, and to consider the Americans as exempt from the common vices and frailties of human nature. It is unnecessary to particularize the numerous ways in which public bodies are accessible to corruption. The poison always finds a channel, and never wants an object. Scruples would be impertinent arguments would be in vain, checks would be useless, if we were certain our rulers would be good men; but for the virtuous government is not instituted: its object is to restrain and punish vice; and all free constitutions are formed

with two views — to deter the governed from crime, and the governors from tyranny.

The CHANCELLOR rose only to correct an error which had appeared in the course of the debate. It had been intimated that the Senate had a right to declare war. This was a mistake. The power could not be exercised except by the whole legislature; nor, indeed, had the Senate a right alone to appoint a single federal officer. The President, with the advice and consent of the Senate, made these appointments. He believed that the power of recall would have a tendency to bind the senators too strongly to the interests of their respective states; and for that reason he objected to it. It will destroy, said he, that spirit of independence and free deliberation which ought to influence the senator. Whenever the interests of a state clash with those of the Union, it will oblige him to sacrifice the great objects of his appointment to local attachments. He will be subjected to all the caprices, the parties, the narrow views, and illiberal politics, of the state governments, and become a slave to the ambitions and factions at home.

These observations, continued the chancellor, are obvious inferences from a principle which has been already explained — that the state legislatures will be ever more or less incapable of comprehending the interests of the Union. They cannot perceive the propriety, or feel the necessity, of certain great expedients in politics, which may seem, in their immediate operation, to injure the private interests of the members.

Hon. R. MORRIS. I am happy, Mr. Chairman, to perceive that it is a principle on all sides conceded, and adopted by this committee, that an energetic federal government is essential to the preservation of our Union; and that a constitution for these states ought to unite firmness and vigor in the national operations, with the full security of our rights and liberties. It is our business, then, to examine whether the proposed Constitution be agreeable to this description. I am pretty well convinced that, on this examination, the system will be found capable of accomplishing these purposes; but if the event of our deliberations should be different, I hope we shall not adopt any amendments which will defeat their own design. Let us be cautious, that, in our

eager pursuit of the great object, we do not run into the errors which disfigure the old Confederation. We may render useless all our provisions for security, by urging and straining them too far: we may apply checks which may have a direct tendency to impede the most salutary operations of the government, and ultimately deprive it of the strength and vigor necessary to preserve our national freedom. I fear the proposed amendment, were it adopted, would have such an effect. My reason has been anticipated by my honorable colleague. It is, that it would create a slavish subjection to the contracted views and prevailing factions of the state governments, or, in its exercise, would deprive the national council of its members in many difficult emergencies, and thus throw the Union into disorder, take away the means of defence, and expose it an easy prey to its enemies.

The gentlemen, in all their zeal for liberty, do not seem to see the danger to be apprehended from foreign power; they consider that all the danger is derived from a fancied tyrannical propensity in their rulers; and against this they are content to provide. I am sorry their views are so confined and partial. An extensive and liberal survey of the subject should teach us that vigor in the government is as necessary to the protection of freedom, as the warmest attachment to liberty in the governors. Sir, if the proposed amendment had been originally incorporated in the Constitution, I should consider it as a capital objection: I believe it would have ultimately defeated the very design of our Union.

Mr. G. LIVINGSTON asked if any reasonable man could suppose that the United States of America would suffer a sister state to be invaded, and refuse to assist in repelling the enemy? If so, we might conclude that they would be so dishonorable as to recall their senators in such a conjuncture. The gentleman's reasoning would apply, when such a flagrant violation of the principles of the Union became probable, and not till then.

Mr. HARRISON. I have but a few observations to make, in addition to those which have been already offered. It seems, sir, to be granted by all parties, not only that a vigorous government is necessary, but that the national legislature ought to be divided into two branches, and that these branches should be organized in a different mode, and

possess different powers. The object of this difference of formation is a very important one. The design of the House of Representatives is to represent the people of the United States, and to protect their liberties. The design of the Senate is to give stability and energy to the government. A single democratic assembly would be subject to changes and inconstancy incompatible with a regular administration. But the gentlemen carry their amendment further than the power of recall; they say that a rotation in office ought to be established; that the senators may return to the private walks of life, in order to recover their sense of dependence. I cannot agree with them in this. If the senator is conscious that his reelection depends only on the will of the people, and is not fettered by any law, he will feel an ambition to deserve well of the public. On the contrary, if he knows that no meritorious exertions of his own can procure a reappointment, he will become more unambitious, and regardless of the public opinion. The love of power, in a republican government, is ever attended by a proportionable sense of dependence. As the Constitution now stands, I see no possible danger of the senators' losing their attachment to the states; but the amendment proposed would tend to weaken this attachment, by taking away the principal incentives to public virtue. We may suppose two of the most enlightened and eminent men in the state, in whom the confidence of the legislature and the love of the people are united, engaged, at the expiration of their office, in the most important negotiations, in which their presence and agency may be indispensable. In this emergency, shall we incapacitate them? Shall we prohibit the legislature from reappointing them? It might endanger our country, and involve us in inextricable difficulties. Under these apprehensions, and with a full conviction of the imprudence of depriving the community of the services of its most valuable citizens, I feel very strongly the impropriety of this amendment, and hope it may not be adopted.

Mr. Chancellor LIVINGSTON rose to suggest an idea which had not been before expressed. It is necessary, said he, that every government should have the power of continuing itself. It ought never to be destroyed, or fundamentally changed, but by the people who gave it birth; and yet the gentleman's amendment would enable the state

legislatures to annihilate the government by recalling the senators.

Hon. Mr. M. SMITH, in answer to the chancellor, observed that, if the gentleman's position was true, that every government should have the power of continuing itself, it followed that the Senate should be capable of perpetuating itself, and assuming a complete independent authority. But, according to his argument, the state legislatures had already a power to destroy the government; for, at the expiration of six years, they had only to neglect to reappoint, and the government would fall of course.

Hon. Mr. LANSING. I trust the committee will indulge me with a few additional observations. It has been an argument urged with considerable zeal, that, if the state legislatures possessed the power of recall, its exercise would be governed by faction or caprice, and be subject to the impulses of the moment. Sir, it has been sufficiently proved to the committee, that, although there have been factions in the state governments—though they have been subject, in some instances, to inconstant humors and a disaffected spirit,—they have never yet exercised the power of recall which was vested in them. As far, therefore, as experience is satisfactory, we may safely conclude that none of these factious humors will operate to produce the evils which the gentlemen apprehend. If, however, the legislature should be so deluded as to recall an honest and faithful senator, certainly every opportunity would be allowed him of defending himself, of explaining his motives which influenced him, and of convincing them of the injustice of the imputation. If the state has been imposed upon by ambitious and designing men, the intrigue, on full examination, will be detected and exposed. If misinformation or false views have produced the measure, the error may easily be corrected.

It has been observed, that the power of recall might be exercised to the destruction of the Union. Gentlemen have expressed their apprehensions that, if one part of the continent was invaded, the states most distant from the danger might refuse their aid, and consequently the whole fall a sacrifice. Is this reasoning upon probability? Is not every state fully convinced that her interest and safety are involved in those of the Union? It is impossible, sir, for such an event to happen, till, in the decline of the human species,

the social principles, on which our union is founded, are utterly lost and forgotten. It is by no means necessary that the state which exercises the power contended for, should continue unrepresented. I have no objection that a clause should be added to the amendment, obliging the state, in case of a recall, to choose immediately other senators, to fill the vacancy. Such a provision would probably, in some measure, remove the apprehensions which are entertained.

In the gentlemen's reasoning on the subject, there appears an inconsistency which I cannot but notice. It is observed, that one design of the Senate, as it is now organized, is to form a counterpoise to the local prejudices which are incompatible with a liberal view of national objects, and which commonly accompany the representatives of a state. On the other hand, it is said, the amendment will have a tendency to lessen the attachment of the senators to their constituents, and make them regardless of the public sentiments, by removing the motive to virtue; that is, a continuation of honors and employments. This reasoning seems to be calculated upon the idea of dependence on the state governments, and a close connection between the interest of the several states and that of their representatives. But this dependence, say the gentlemen, is the very source of all those local prejudices which are so unfavorable to good government, and which the design of the Senate was to correct and remove. I am, however, sir, by no means in sentiment with the honorable gentleman, that the rotation proposed would diminish the senator's ambition to merit the good-will of the people. Though, at the expiration of his office, he would be incapacitated for a term of six years, yet to the end of this term he would look forward with as earnest ambition as if he were constantly the object of the public suffrages. Nay, while in office, he would have an additional motive to act well; for, conscious of the people's inconstant disposition, he would be obliged, in order to secure a future election, to fix in their minds the most lasting impression of his services. It is entirely probable that local interests, opinions, and prejudices, will ever prevail in the general government, in a greater or less degree. It was upon this presumption that the small states were induced to join themselves to the Union.

Hon. Mr. HAMILTON. I am persuaded, Mr. Chair-

man, that I, in my turn, shall be indulged in addressing the committee. We all, in equal sincerity, profess to be anxious for the establishment of a republican government on a safe and solid basis. It is the object of the wishes of every honest man in the United States; and I presume I shall not be disbelieved, when I declare that it is an object, of all others, the nearest and most dear to my own heart. The means of accomplishing this great purpose become the most important study which can interest mankind. It is our duty to examine all those means with peculiar attention, and to choose the best and most effectual. It is our duty to draw from nature, from reason, from examples, the best principles of policy, and to pursue and to apply them in the formation of our government. We should contemplate and compare the systems which, in this examination, come under our view; distinguish, with a careful eye, the defects and excellences of each, and, discarding the former, incorporate the latter, as far as circumstances will admit, into our Constitution. If we pursue a different course, and neglect this duty, we shall probably disappoint the expectation of our country and of the world.

In the commencement of a revolution which received its birth from the usurpations of tyranny, nothing was more natural than that the public mind should be influenced by an extreme spirit of jealousy. To resist these encroachments, and to nourish this spirit, was the great object of all our public and private institutions. The zeal for liberty became predominant and excessive. In forming our Confederation, this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one, and deserved our utmost attention; but, sir, there is another object, equally important, and which our enthusiasm rendered us little capable of regarding: I mean a principle of *strength* and *stability* in the organization of our government, and *vigor* in its operations. This purpose could never be accomplished but by the establishment of some select body, formed particularly upon this principle. There are few positions more demonstrable than that there should be, in every republic, some permanent body to correct the prejudices, check the intemperate passions, and regulate the fluctuations, of a popular assembly. It is evident that a body

instituted for these purposes must be so formed as to exclude, as much as possible, from its own character, those infirmities, and that mutability, which it is designed to remedy. It is, therefore, necessary that it should be small, that it should hold its authority during a considerable period, and that it should have such an independence in the exercise of its powers, as will divest it, as much as possible, of local prejudices. It should be so formed as to be the centre of political knowledge, to pursue always a steady line of conduct, and to reduce every irregular propensity to system. Without this establishment, we may make experiments without end, but shall never have an efficient government.

It is an unquestionable truth, that the body of the people, in every country, desire sincerely its prosperity; but it is equally unquestionable, that they do not possess the discernment and stability necessary for systematic government. To deny that they are frequently led into the grossest errors by misinformation and passion, would be a flattery which their own good sense must despise. That branch of administration, especially, which involves our political relation with foreign states, a community will ever be incompetent to. These truths are not often held up in public assemblies; but they cannot be unknown to any who hear me.

From these principles it follows that there ought to be two distinct bodies in our government — one which shall be immediately constituted by and peculiarly represent the people, and possess all the popular features; another formed upon the principle and for the purposes before explained. Such considerations as these induced the Convention who formed your state Constitution to institute a Senate upon the present plan. The history of ancient and modern republics had taught them that many of the evils which these republics suffered arose from the want of a certain balance and mutual control indispensable to a wise administration; they were convinced that popular assemblies were frequently misguided by ignorance, by sudden impulses, and the intrigues of ambitious men, and that some firm barrier against these operations was necessary: they, therefore, instituted your Senate, and the benefits we have experienced have fully justified their conceptions.

Now, sir, what is the tendency of the proposed amend-

ment? To take away the stability of government by depriving the Senate of its permanency; to make this body subject to the same weakness and prejudices which are incident to popular assemblies, and which it was instituted to correct; and, by thus assimilating the complexion of the two branches, destroy the balance between them. The amendment will render the senator a slave to all the capricious humors among the people. It will probably be here suggested, that the legislatures, not the people, are to have the power to recall. Without attempting to prove that the legislatures must be, in a great degree, the image of the multitude, in respect to federal affairs, and that the same prejudices and factions will prevail, I insist that, in whatever body the power of recall is vested, the senator will perpetually feel himself in such a state of vassalage and dependence, that he never can possess that firmness which is necessary to the discharge of his great duty to the Union.

Gentlemen, in their reasoning, have placed the interests of the several states, and those of the United States, in contrast; this is not a fair view of the subject; they must necessarily be involved in each other. What we apprehend is, that some sinister prejudice, or some prevailing passion, may assume the form of a genuine interest. The influence of these is as powerful as the most permanent conviction of the public good; and against this influence we ought to provide. The local interests of a state ought, in every case, to give way to the interests of the Union; for when a sacrifice of one or the other is necessary, the former becomes only an apparent partial interest, and should yield, on the principle that the small good ought never to oppose the great one. When you assemble from your several counties in the legislature, were every member to be guided only by the apparent interest of his county, government would be impracticable. There must be a perpetual accommodation and sacrifice of local advantage to general expediency; but the spirit of a mere popular assembly would rarely be actuated by this important principle. It is therefore absolutely necessary that the Senate should be so formed as to be unbiased by false conceptions of the real interests or undue attachment to the apparent good of their several states.

Gentlemen indulge too many unreasonable apprehensions of danger to the state governments; they seem to suppose

that, the moment you put men into a national council, they become corrupt and tyrannical, and lose all affection for their fellow-citizens. But can we imagine that the senators will ever be so insensible of their own advantage as to sacrifice the genuine interest of their constituents? The state governments are essentially necessary to the form and spirit of the general system. As long, therefore, as Congress have a full conviction of this necessity, they must, even upon principles purely national, have as firm an attachment to the one as to the other. This conviction can never leave them, unless they become madmen. While the Constitution continues to be read, and its principles known, the states must, by every rational man, be considered as essential, component parts of the Union; and therefore the idea of sacrificing the former to the latter is wholly inadmissible.

The objectors do not advert to the natural strength and resources of state governments, which will ever give them an important superiority over the general government. If we compare the nature of their different powers, or the means of popular influence which each possesses, we shall find the advantage entirely on the side of the states. This consideration, important as it is, seems to have been little attended to. The aggregate number of representatives throughout the states may be two thousand. The personal influence will, therefore, be proportionably more extensive than that of one or two hundred men in Congress. The state establishments of civil and military officers of every description, infinitely surpassing in number any possible correspondent establishments in the general government, will create such an extent and complication of attachments, as will ever secure the predilection and support of the people. Whenever, therefore, Congress shall meditate any infringement of the state constitutions, the great body of the people will naturally take part with their domestic representatives. Can the general government withstand such a united opposition? Will the people suffer themselves to be stripped of their privileges? Will they suffer their legislatures to be reduced to a shadow and name? The idea is shocking to common sense.

From the circumstances already explained, and many others which might be mentioned, results a complicated, irresistible check, which must ever support the existence and

importance of the state governments. The danger, if any exists, flows from an opposite source. The probable evil is, that the general government will be too dependent on the state legislatures, too much governed by their prejudices, and too obsequious to their humors; that the states, with every power in their hands, will make encroachments on the national authority, till the Union is weakened and dissolved.

Every member must have been struck with an observation of a gentleman from Albany. Do what you will, says he, local prejudices and opinions will go into the government. What! shall we then form a constitution to cherish and strengthen these prejudices? Shall we confirm the distemper, instead of remedying it? It is undeniable that there must be a control somewhere. Either the general interest is to control the particular interests, or the contrary. If the former, then certainly the government ought to be so framed, as to render the power of control efficient to all intents and purposes; if the latter, a striking absurdity follows: the controlling powers must be as numerous as the varying interests, and the operations of government must therefore cease; for the moment you accommodate these different interests, which is the only way to set the government in motion, you establish a general controlling power. Thus, whatever constitutional provisions are made to the contrary, every government will be at last driven to the necessity of subjecting be partial to the universal interest. The gentlemen ought always, in their reasoning, to distinguish between the real, genuine good of a state, and the opinions and prejudices which may prevail respecting it. The latter may be opposed to the general good, and consequently ought to be sacrificed; the former is so involved in it, that it never can be sacrificed. Sir, the main design of the Convention, in forming the senate, was to prevent fluctuations and cabals. With this view, they made that body small, and to exist for a considerable period. Have they executed this design too far? The senators are to serve six years. This is only two years longer than the senators of this state hold their places. One third of the members are to go out every two years; and in six, the whole body will be changed. Prior to the revolution, the representatives in the several colonies were elected for different periods — for three years, for seven years, &c. Were those bodies ever considered as incapable of represent-

ing the people, or as too independent of them? There is one circumstance which will have a tendency to increase the dependence of the senators on the states, in proportion to the duration of their appointments. As the state legislatures are in continual fluctuation, the senator will have more attachments to form, and consequently a greater difficulty of maintaining his place, than one of shorter duration. He will, therefore, be more cautious and industrious to suit his conduct to the wishes of his constituents.

Sir, when you take a view of all the circumstances which have been recited, you will certainly see that the senators will constantly look up to the state governments with an eye of dependence and affection. If they are ambitious to continue in office, they will make every prudent arrangement for this purpose, and, whatever may be their private sentiments or politics, they will be convinced that the surest means of obtaining a reelection will be a uniform attachment to the interests of their several states.

The gentlemen, to support their amendment, have observed that the power to recall, under the old government, has never been exercised. There is no reasoning in this. The experience of a few years, under peculiar circumstances, can afford no probable security that it never will be carried into execution with unhappy effects. A seat in Congress has been less an object of ambition; and the arts of intrigue, consequently, have been less practised. Indeed, it has been difficult to find men who were willing to suffer the mortifications to which so feeble a government, and so dependent a station, exposed them.

Sir, if you consider but a moment the purposes for which the *Senate* was instituted, and the nature of the business which they are to transact, you will see the necessity of giving them duration. They, together with the President, are to manage all our concerns with foreign nations; they must understand all their interests, and their political systems. This knowledge is not soon acquired; but a very small part is gained in the closet. Is it desirable, then, that new and unqualified members should be continually thrown into that body? When public bodies are engaged in the exercise of general powers, you cannot judge of the propriety of their conduct, but from the result of their systems. They may be forming plans which required time and diligence to

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bring to maturity. It is necessary, therefore, that they should have a considerable and fixed duration, that they may make their calculations accordingly. If they are to be perpetually fluctuating, they can never have that responsibility which is so important in republican governments. In bodies subject to frequent changes, great political plans must be conducted by members in succession. A single assembly can have but a partial agency in them, and, consequently, cannot properly be answerable for the final event. Considering the Senate, therefore, with a view to responsibility, duration is a very interesting and essential quality. There is another view in which duration in the Senate appears necessary. A government changeable in its policy must soon lose its sense of national character, and forfeit the respect of foreigners. Senators will not be solicitous for the reputation of public measures, in which they had but a temporary concern, and will feel lightly the burden of public disapprobation, in proportion to the number of those who partake of the censure. Our political rivals will ever consider our mutable counsels as evidence of deficient wisdom, and will be little apprehensive of our arriving at any exalted station in the scale of power.

Such are the internal and external disadvantages which would result from the principle contended for. Were it admitted, I am fully persuaded, sir, that prejudices would govern the public deliberations, and passions rage in the councils of the Union. If it were necessary, I could illustrate my subject by historical facts. I could travel through an extensive field of detail, and demonstrate that wherever the fatal principle, of the head suffering the control of the members, has operated, it has proved a fruitful source of commotions and disorder.

This, sir, is the first fair opportunity that has been offered for deliberately correcting the errors in government. Instability has been a prominent and very defective feature in most republican systems. It is the first to be seen, and the last to be lamented, by a philosophical inquirer. It has operated most banefully in our infant republics. It is necessary that we apply an immediate remedy, and eradicate the poisonous principle from our government. If this be not done, sir, we shall feel, and posterity will be convulsed by, a painful malady.

The Hon. Mr. LANSING said, he had very closely at-

tended to the arguments which had been advanced on the subject; but, however strongly and ingenuously they had been urged, he confessed they had not had a tendency to change his sentiments. The principles which the gentleman had laid down, with respect to a division of the legislature, and the necessity of a balance, he admitted. If he had been inclined to dispute the expediency of two distinct branches in the government, he should not now be taking up the time of the committee in a contest respecting the form and powers of these two branches. He granted, therefore, that there ought to be two houses, to afford a mutual check. The gentleman seemed disposed to render the federal government entirely independent, and to prevent the possibility of its ever being influenced by the interests of the several states; and yet he had acknowledged them to be necessary, fundamental parts of the system. Where, then, was the check? The states, having no constitutional control, would soon be found unnecessary and useless, and would be gradually extinguished. When this took place, the people would lose their liberties, and be reduced from the condition of citizens to that of subjects. It had been remarked, that there were more than two thousand state representatives throughout the Union, and that the number of civil and military officers on the state establishments would far exceed those of the United States; and these circumstances, it has been said, would create such an attachment and dependence on the state governments, as would give them a superiority over the general government. But, said he, were the states arrayed in all the powers of sovereignty? Could they maintain armies? Had they the unlimited power of taxation? There was no comparison, he said, between the powers of the two governments. The circumstances the gentleman had enumerated, which seemed to be in favor of the states, only proved that the people would be under some advantages to discern the encroachments of *Congress*, and to take the alarm; but what would this signify? The gentleman did not mean that his principles should encourage rebellion: what other resource had they? None, but to wait patiently till the long terms of their senators were expired, and then elect other men. All the boasted advantages enjoyed by the states were finally reduced to this. The gentleman had spoken of an enmity which would subsist between the general and state governments: what,

then, would be the situation of both? His wish, he said, was to prevent any enmity, by giving the states a constitutional and peaceable mode of checking maladministration, by recalling their senators, and not driving them into hostilities, in order to obtain redress.

The Hon. Mr. SMITH observed, that, when he had the honor to address the committee on the preceding question of the *representation*, he stated to them his idea, that it would be impossible, under the new Constitution as it stands, to have such a genuine representation of the people as would itself form a check in the government; that therefore it became our duty to provide checks of another nature. The honorable gentleman from New York had made many pertinent observations on the propriety of giving stability to the Senate. The general principles laid down, he thought, were just. He only disputed the inferences drawn from them, and their application to the proposed amendments. The only question was, whether the checks attempted in the amendment were incompatible with that stability which, he acknowledged, was essential to good government. Mr. Smith said he did not rise to enter at present into the debate at large. Indisposition compelled him to beg leave of the committee to defer what he had to offer to them till the succeeding day.

WEDNESDAY, June 25. — Section the third was again read, when

Mr. SMITH resumed his argument, as follows: The amendment embraces two objects — first, that the senators shall be eligible for only six years in any term of twelve years; second, that they shall be subject to the recall of the legislatures of their several states. It is proper that we take up these points separately. I concur with the honorable gentleman that there is a necessity for giving this branch a greater stability than the House of Representatives. I think his reasons are conclusive on this point. But, sir, it does not follow, from this position, that the *senators* ought to hold their *aces* during life. Declaring them ineligible during a certain term after six years, is far from rendering them less stable than necessary. We think the amendments will place the Senate in a proper medium between a fluctuating and a perpetual body. As the clause now stands, there is no doubt that senators will hold their office perpetually; and in this

situation they must of necessity lose their dependence, and attachments to the people. It is certainly inconsistent with the established principles of republicanism that the Senate should be a fixed and unchangeable body of men. There should be, then, some constitutional provision against this evil. A rotation I consider as the best possible mode of effecting a remedy. The amendment will not only have a tendency to defeat any plots which may be formed against the liberty and authority of the state governments, but will be the best means to extinguish the factions which often prevail, and which are sometimes so fatal to legislative bodies. This appears to me an important consideration. We have generally found that perpetual bodies have either combined in some scheme of usurpation, or have been torn and distracted with cabals. Both have been the source of misfortunes to the state. Most people acquainted with history will acknowledge these facts. Our Congress would have been a fine field for party spirit to act in. That body would undoubtedly have suffered all the evils of faction, had it not been secured by the rotation established by the Articles of Confederation. I think a *rotation* in the government is a very important and truly republican institution. All good republicans, I presume to say, will treat it with respect.

It is a circumstance strongly in favor of rotation, that it will have a tendency to diffuse a more general spirit of emulation, and to bring forward into office the genius and abilities of the continent: the ambition of gaining the qualifications necessary to govern will be in some proportion to the chance of success. If the office is to be perpetually confined to a few, other men, of equal talents and virtue, but not possessed of so extensive an influence, may be discouraged from aspiring to it. The more perfectly we are versed in the political science, the more firmly will the happy principles of republicanism be supported. The true policy of constitutions will be to increase the information of the country, and disseminate the knowledge of government as universally as possible. If this be done, we shall have, in any dangerous emergency, a numerous body of enlightened citizens, ready for the call of their country. As the Constitution now is, you only give an opportunity to two men to be acquainted with the public affairs. It is a maxim with me that every man employed in a high office by the people, should, from time to

time, *return* to them, that he may be in a situation to satisfy them with respect to his conduct and the measures of administration. If I recollect right, it was observed by an honorable member from New York, that this amendment would be an infringement on the natural rights of the people. I humbly conceive, if the gentleman reflects maturely on the nature of his argument, he will acknowledge its weakness. What is government itself but a restraint upon the natural rights of the people? What constitution was ever devised that did not operate as a restraint on their original liberties? What is the whole system of qualifications, which take place in all free governments, but a restraint? Why is a certain age made necessary? why a certain term of citizenship? This Constitution itself, sir, has restraints innumerable. The amendment, it is true, may exclude two of the best men; but it can scarcely happen that the state will sustain any material loss by his. I hope and believe that we shall always have more than two men who are capable of discharging the duty of a senator. But, if it should so happen that the state possessed only two capable men, it would be necessary they should return home, from time to time, to inspect and regulate our domestic affairs. I do not conceive the state can suffer any inconvenience. The argument, indeed, might have some weight, were the representation very large; but, as the power is to be exercised upon only two men, the apprehensions of the gentleman are entirely without foundation.

With respect to the second part of the amendment, I would observe, that, as the senators are the representatives of the *state legislatures*, it is reasonable and proper that they should be under their control. When a state sends an agent commissioned to transact any business, or perform any service, it certainly ought to have a power to recall. These are plain principles, and so far as they apply to the case under examination, they ought to be adopted by us. Form this government as you please, you must, at all events, lodge in it very important powers. These powers must be in the hands of a few men, so situated as to procure a small degree of responsibility. These circumstances ought to put us upon our guard, and the inconvenience of this necessary delegation of power should be corrected, by providing some suitable checks.

Against this part of the amendment a great deal of argu

ment has been used, and with considerable plausibility. It is said, if the amendment takes place, the senators will hold their office only during the pleasure of the state legislatures, and consequently will not possess the necessary firmness and stability. I conceive, sir, there is a fallacy in this argument, founded upon the suspicion that the legislature of a state will possess the qualities of a mob, and be incapable of any regular conduct. I know that the impulses of the multitude are inconsistent with systematic government. The people are frequently incompetent to deliberate discussion, and subject to errors and imprudences. Is this the complexion of the state legislatures? I presume it is not. I presume that they are never actuated by blind impulses; that they rarely do things hastily and without consideration. My apprehension is, that the power of recall would not be exercised as often as it ought. It is highly improbable that a man in whom the state has confided, and who has an established influence, will be recalled, unless his conduct has been notoriously wicked. The arguments of the gentleman, therefore, do not apply in this case. It is further observed, that it would be improper to give the legislatures this power, because the local interests and prejudices ought not to be admitted into the general government; and that, if the senator is rendered too dependent on his constituents, he will sacrifice the interests of the Union to the policy of his state. Sir, the Senate has been generally held up, by all parties, as a safeguard to the rights of the several states. In this view, the closest connection between them has been considered as necessary. But now, it seems, we speak in a different language; we now look upon the least attachment to their states as dangerous; we are now for separating them, and rendering them entirely independent, that we may root out the last vestige of state sovereignty.

An honorable gentleman from New York observed yesterday, that the *states* would always maintain their importance and authority, on account of their superior influence over the people. To prove this influence, he mentioned the aggregate number of the state representatives throughout the continent. But I ask him how long the people will retain their confidence for two thousand representatives who shall meet once in a year to make laws for regulating the height of your fences and the repairing of your roads. Will they

not, by and by, be saying, Here, we are paying a great number of men for doing nothing: we had better give up all the civil business of our state, with its powers, to Congress, who are sitting all the year round: we had better get rid of the useless burden. That matters will come to this at last, I have no more doubt than I have of my existence. The state governments, without object or authority, will soon dwindle into insignificance, and be despised by the people themselves. I am, sir, at a loss to know how the *state legislatures* will spend their time. Will they make laws to regulate agriculture? I imagine this will be best regulated by the sagacity and industry of those who practise it. Another reason offered by the gentleman is, that the states will have a greater number of officers than the general government. I doubt this. Let us make a comparison. In the first place, the federal government must have a complete set of judicial officers of different ranks throughout the continent; then, a numerous train of executive officers, in all the branches of the revenue, both internal and external; and all the civil and military departments. Add to this, their *salaries* will probably be larger and better secured than those of any state officers. If these numerous offices are not at once established, they are in the power of Congress, and will all in time be created. Very few offices will be objects of ambition in the states. They will have no establishment at all to correspond with some of those I have mentioned; in other branches, they will have the same as Congress. But I ask, What will be their comparative influence and importance? I will leave it, sir, to any man of candor to determine whether there will not probably be more lucrative and honorable places in the gift of Congress than in the disposal of the states altogether. But the whole reasoning of the gentlemen rests upon the principle that the states will be able to check the general government, by exciting the people to opposition: it only goes to prove that the state officers will have such influence over the people as to impel them to hostility and rebellion. This kind of check, I contend, would be a pernicious one, and certainly ought to be prevented. *Checks* in government ought to act silently, and without public commotion. I think that the harmony of the two powers should by all means be maintained: if it be not, the operation of government will be baneful; one or the

other of the parties must finally be destroyed in the conflict. The constitutional line between the authority of each should be so obvious, as to leave no room for jealous apprehensions or violent contests.

It is further said, that the operation of local interests should be counteracted; for which purpose the Senate should be rendered permanent. I conceive that the true interest of every state is the interest of the whole; and that, if we should have a well-regulated government, this idea will prevail. We shall, indeed, have few local interests to pursue, under the new Constitution, because it limits the claims of the states by so close a line, that on their part there can be but little dispute, and little worth disputing about. But, sir, I conceive that partial interests will grow continually weaker, because there are not those fundamental differences between the real interests of the several states, which will long prevent their coming together, and becoming uniform. Another argument advanced by the gentlemen is, that our amendment would be the means of producing factions among the electors; *that aspiring men* would misrepresent the conduct of a faithful senator, and by intrigue procure a *recall upon false grounds*, in order to make room for themselves. But, sir, men who are ambitious for places will rarely be disposed to render those places unstable. A truly ambitious man will never do this, unless he is mad. It is not to be supposed that a state will recall a man once in twenty years, to make way for another. Dangers of this kind are very remote: I think they ought not to be brought seriously into view.

More than one of the gentlemen have ridiculed my apprehensions of corruption. How, say they, are the people to be corrupted? By their own money? Sir, in many countries, the people pay money to corrupt themselves: why should it not happen in this? Certainly, the Congress will be as liable to *corruption* as other bodies of men. Have they not the same frailties, and the same temptations? With respect to the corruption arising from the disposal of offices, the gentlemen have treated the argument as insignificant. But let any one make a calculation, and see whether there will not be good offices enough to dispose of to every man who goes there, who will then freely resign his seat; for can any one suppose that a member of Congress will not

go out and relinquish his four dollars a day, for two or three thousand pounds a year? It is here objected that no man can hold an office created during the time he is in Congress. But it will be easy for a man of influence, who has in his eye a favorite office previously created, and already filled, to say to his friend who holds it, Here, I will procure you another place of more emolument, provided you will relinquish yours in favor of me. The Constitution appears to be a restraint, when, in fact, it is none at all. I presume, sir, there is not a government in the world in which there is a greater scope for influence and corruption in the disposal of offices. Sir, I will not declaim, and say all men are dishonest; but I think, in forming a constitution, if we presume this, we shall be on the safest side. This extreme is certainly less dangerous than the other. It is wise to multiply checks to a greater degree than the present state of things requires. It is said that corruption has never taken place under the old government: I believe gentlemen hazard this assertion without proofs. That it has taken place in some degree is very probable. Many millions of money have been put into the hands of government, which have never yet been accounted for: the accounts are not yet settled, and Heaven only knows when they will be.

I have frequently observed a restraint upon the state governments, which Congress never can be under, construct that body as you please. It is a truth capable of demonstration, that the nearer the representative is to his constituents, the more attached and dependent he will be. In the states, the elections are frequent, and the representatives numerous: they transact business in the midst of their constituents, and every man must be called upon to account for his conduct. In this state, the council of appointment are elected for one year. The proposed Constitution establishes a council of appointment who will be perpetual. Is there any comparison between the two governments in point of security? It is said that the governor of this state is always eligible; but this is not in point. The governor of this state is limited in his powers; indeed, his authority is small and insignificant, compared to that of the Senate of the United States.

The Hon. Mr. HAMILTON. Mr. Chairman, in debates of this kind, it is extremely easy, on either side, to say a

great number of plausible things. It is to be acknowledged that there is even a certain degree of truth in the reasonings on both sides. In this situation, it is the province of judgment and good sense to determine their force and application, and how far the arguments advanced on one side are balanced by those on the other. The ingenious dress in which both may appear renders it a difficult task to make this decision, and the mind is frequently unable to come to a safe and solid conclusion. On the present question, some of the principles on each side are admitted, and the conclusions from them denied, while other principles, with their inferences, are rejected altogether. It is the business of the committee to seek the truth in this labyrinth of argument.

There are two objects in forming systems of government — *safety* for the people, and *energy* in the administration. When these objects are united, the certain tendency of the system will be to the public welfare. If the latter object be neglected, the people's security will be as certainly sacrificed as by disregarding the former. Good constitutions are formed upon a comparison of the liberty of the individual with the strength of government: if the tone of either be too high, the other will be weakened too much. It is the happiest possible mode of conciliating these objects, to institute one branch peculiarly endowed with sensibility, another with knowledge and firmness. Through the opposition and mutual control of these bodies, the government will reach, in its operations, the perfect balance between liberty and power. The arguments of the gentlemen chiefly apply to the former branch — the House of Representatives. If they will calmly consider the different nature of the two branches, they will see that the reasoning which justly applies to the representative house, will go to destroy the essential qualities of the Senate. If the former is calculated perfectly upon the principles of caution, why should you impose the same principles upon the latter, which is designed for a different operation? Gentlemen, while they discover a laudable anxiety for the safety of the people, do not attend to the important distinction I have drawn. We have it constantly held up to us, that, as it is our chief duty to guard against tyranny, it is our policy to form all the branches of government for this purpose.

Sir, it is a truth sufficiently illustrated by experience, that

when the *people* act by their representatives, they are commonly *irresistible*. The gentleman admits the position, that stability is essential to the government, and yet enforces principles which, if true, ought to banish stability from the system. The gentleman observes, that there is a fallacy in my reasoning, and informs us that the legislatures of the states, not the people, are to appoint the senators. Does he reflect that they are the immediate agents of the people, that they are so constituted as to feel all their prejudices and passions, and to be governed, in a great degree, by their misapprehensions? Experience must have taught him the truth of this. Look through their history: what factions have arisen from the most trifling causes! What intrigues have been practised for the most illiberal purposes! Is not the state of Rhode Island, at this moment, struggling under difficulties and distresses, for having been led blindly by the spirit of the multitude? What is her legislature but the picture of a *mob*? In this state, we have a senate, possessed of the proper qualities of a permanent body. Virginia, Maryland, and a few other states, are in the same situation. The rest are either governed by a single democratic assembly, or have a senate constituted entirely upon democratic principles. These have been more or less embroiled in factions, and have generally been the image and echo of the multitude. It is difficult to reason on this point, without touching on certain delicate chords. I could refer you to periods and conjunctures when the people have been governed by improper passions, and led by factious and designing men. I could show that the same passions have infected their representatives. Let us beware that we do not make the state legislatures a vehicle in which the evil humors may be conveyed into the national system. To prevent this, it is necessary that the *Senate* should be so formed, as in some measure to check the *state governments*, and preclude the communication of the false impressions which they receive from the people. It has been often repeated, that the legislatures of the states can have only a partial and confined view of national affairs; that they can form no proper estimate of great objects which are not in the sphere of their interests. The observation of the gentleman, therefore, cannot take off the force of argument.

Sir, the senators will constantly be attended with a re-

lection, that their future existence is absolutely in the power of the states. Will not this form a powerful check? It is a reflection which applies closely to their feelings and interests; and no candid man, who thinks deliberately, will deny that it would be alone a sufficient check. The legislatures are to provide the mode of electing the President, and must have a great influence over the electors. Indeed, they convey their influence, through a thousand channels, into the general government. Gentlemen have endeavored to show that there will be no clashing of local and general interests — they do not seem to have sufficiently considered the subject. We have, in this state, a duty of sixpence per pound on salt, and it operates lightly and with advantage; but such a duty would be very burdensome to some of the states. If Congress should, at any time, find it convenient to impose a salt tax, would it not be opposed by the Eastern States? Being themselves incapable of feeling the necessity of the measure, they could only feel its apparent injustice. Would it be wise to give the New England States a power to defeat this measure, by recalling their senators who may be engaged for it? I beg the gentlemen once more to attend to the distinction between the real and the apparent interests of the states. I admit that the aggregate of individuals constitute the government; yet every state is not the government; every petty district is not the government. Sir, in our state legislatures, a *compromise* is frequently necessary between the interests of counties: the same must happen in the general government, between states. In this, the few must yield to the many; or, in other words, the particular must be sacrificed to the general interest. If the members of Congress are too dependent on the state legislatures, they will be eternally forming secret combinations from local views. This is reasoning from the plainest principles. Their interest is interwoven with their dependence, and they will necessarily yield to the impression of their situation. Those who have been in Congress have seen these operations. The first question has been, How will such a measure affect my constituents, and, consequently, how will the part I take affect my reelection? This consideration may be in some degree proper; but to be dependent from day to day, and to have the idea perpetually present, would be the source of numerous evils. *Six years, sir, is a period*

short enough for a proper degree of dependence. Let us consider the peculiar state of this body, and see under what impressions they will act. *One third* of them are to go out at the end of two years, *two thirds* at four years, and the *whole* at six years. When one year is elapsed, there is a number who are to hold their places for one year, others for three, and others for five years. Thus there will not only be a constant and frequent change of members; but there will be some whose office is near the point of expiration, and who, from this circumstance, will have a lively sense of their dependence. The *biennial* change of members is an excellent invention for increasing the difficulty of combination. Any scheme of usurpation will lose, every two years, a number of its oldest advocates, and their places will be supplied by an equal number of new, unaccommodating, and virtuous men. When two principles are equally important, we ought, if possible, to reconcile them, and sacrifice neither. We think that safety and permanency in this government are completely reconcilable. The state governments will have, from the causes I have described, a sufficient influence over the Senate, without the check for which the gentlemen contend.

It has been remarked, that there is an inconsistency in our admitting that the *equal vote in the Senate* was given to secure the rights of the states, and at the same time holding up the idea that their interests should be sacrificed to those of the Union. But the committee certainly perceive the distinction between the rights of a state and its interests. The rights of a state are defined by the Constitution, and cannot be invaded without a violation of it; but the interests of a state have no connection with the Constitution, and may be, in a thousand instances, constitutionally sacrificed. A uniform tax is perfectly constitutional; and yet it may operate oppressively upon certain members of the Union. The gentlemen are afraid that the state governments will be abolished. But, sir, their existence does not depend upon the laws of the United States. Congress can no more abolish the state governments, than they can dissolve the Union. The whole Constitution is repugnant to it, and yet the gentlemen would introduce an additional useless provision against it. It is proper that the influence of the states should prevail to a certain extent. But shall the individual states be the judges how far? Shall an unlimited power be

left them to determine in their own favor? The gentlemen go into the extreme: instead of a wise government, they would form a fantastical Utopia. But, sir, while they give it a plausible, popular shape, they would render it impracticable. Much has been said about factions. As far as my observation has extended, factions in Congress have arisen from attachment to *state prejudices*. We are attempting, by this Constitution, to abolish factions, and to unite all parties for the general welfare. That a man should have the power, in private life, of recalling his agent, is proper; because, in the business in which he is engaged, he has no other object but to gain the approbation of his principal. Is this the case with the senator? Is he simply the agent of the state? No. He is an agent for the Union, and he is bound to perform services necessary to the good of the whole, though his state should condemn them.

Sir, in contending for a rotation, the gentlemen carry their zeal beyond all reasonable bounds. I am convinced that no government, founded on this feeble principle, can operate well: I believe also that we shall be singular in this proposal. We have not felt the embarrassments resulting from rotation that other states have; and we hardly know the strength of their objection to it. There is no probability that we shall ever persuade a majority of the states to agree to this amendment. The gentlemen deceive themselves; the amendment would defeat their own design. When a man knows he must quit his station, let his merit be what it may, he will turn his attention chiefly to his own emolument: nay, he will feel temptations, which few other situations furnish, to perpetuate his power by unconstitutional usurpations. Men will pursue their interests. It is as easy to change human nature as to oppose the strong current of the selfish passions. A wise legislator will gently divert the channel, and direct it, if possible, to the public good.

It has been observed, that it is not possible there should be in a state only two men qualified for senators. But, sir, the question is not, whether there may be no more than two men; but whether, in certain emergencies, you could find two equal to those whom the amendment would discard. Important negotiations, or other business to which they shall be most competent, may employ them at the moment of their removal. These things often happen. The difficulty of obtaining men

capable of conducting the affairs of a nation in dangerous times, is much more serious than the gentlemen imagine.

As to corruption, sir, admitting, in the *President*, a disposition to corrupt, what are the instruments of bribery? It is said he will have in his *disposal* a great number of *offices*. But how many offices are there, for which a man would relinquish the senatorial dignity? There may be some in the judicial, and some in other principal departments. But there are few whose respectability can, in any measure, balance that of the office of senator. Men who have been in the Senate once, and who have a reasonable hope of a reelection, will not be easily bought by offices. This reasoning shows that a *rotation* would be productive of many *disadvantages*: under particular circumstances, it might be extremely inconvenient, if not fatal to the prosperity of our country.

The Hon. Mr. SMITH. Few observations have fallen from the gentleman which appear to be new. He supposes *factions* cannot exist in the Senate without the knowledge of the state legislatures, who may, at the expiration of their office, elect other men. I believe, sir, that factions may prevail to a considerable degree without being known. Violent actions have sometimes taken place in Congress, respecting foreign matters, of which the public are ignorant. Some things have happened which are not proper to be divulged. So it by no means appears probable that the clashing of state interests will be the only cause of parties in the government. It has also been observed that the Senate has the check of the House of Representatives. The gentlemen are not accurate in stating this matter. The Senate is vested with certain great exclusive powers; and in the exercise of these powers, factions may as probably take place as in any transactions whatever. The honorable member further remarks that, from the intimate connection between the state legislatures and the people, the former will be the image of the latter, and subject to the same passions and prejudices. Now, I will ask every candid man if this is true position. Certainly, it cannot be supposed that a small body of men, selected from the people for the purpose of making laws, will be incapable of a calm and deliberate view of political subjects. Experience has not proved that our legislatures are commonly guilty of errors arising from this

source. There always has been, and ever will be, a considerable proportion of moderate and well-informed men among them. Though factions have prevailed, there are no instances of tumultuous proceedings; no instances to prove that they are not capable of wise deliberations. It is perhaps useless for me to continue this discussion, in order to answer arguments which have been answered before. I shall not therefore, trouble the committee any more at present.

Mr. Chancellor LIVINGSTON observed, that it would not, perhaps, be altogether impertinent to remind the committee, that, since the intelligence of yesterday,* it had become evident that the circumstances of the country were greatly altered, and the ground of the present debate changed. The Confederation, he said, was now *dissolved*. The question before the committee was now a question of policy and expediency. He presumed the Convention would consider the situation of their country. He supposed, however, that some might contemplate disunion without pain. They might flatter themselves that some of the Southern States would form a league with us; but he could not look without horror at the dangers to which any such confederacy would expose the state of New York. He said, it might be political cowardice in him, but he had felt since yesterday an alteration of circumstances, which had made a most solemn impression on his mind. The amendment he considered as derogatory to the principles of the Constitution, and contrary to the design of the institution of the Senate. It was as clear as any position proved by experience, that the people, in many instances, could not know their own good; that, as a body, they were not capable of pursuing the true road to happiness; and that they were rarely competent to judge of the politics of a great nation, or the wisdom of public measures. This principle, he said, seemed to be admitted. But the gentlemen had remarked that, though the argument was a good one with respect to the people at large, it did not apply to the state legislatures. The chancellor acknowledged that the application in the last case was not so forcible; yet he contended that the people at large were little less capable of judging of the civil interests of their state, than the state legislatures were of

* Alluding to the adoption of the Constitution by New Hampshire.

omprehending the great political interests of the Union. He said that no single member of a body could judge properly of the affairs of that body. The sphere in which *the states* moved was of a different nature ; the transactions in which they were engaged were of a different complexion. The objects which came under their view wore an aspect totally dissimilar. The legislatures of the states, he said, were not elected with a political view, nor for the same purposes as the members of Congress. Their business was to regulate the *civil affairs* of their several states, and therefore they ought not to possess powers, to a proper exercise of which they were not competent. The Senate was to transact all foreign business : of this the states, from the nature of things, must be entirely ignorant. The Constitution of New York (continued the chancellor) had contemplated a deficiency of wisdom in the legislature, even in their domestic regulations : it had provided a council of revision, to correct their errors. Would the gentlemen, then, acknowledge that the legislatures are liable to frequent mistakes in civil affairs, and yet maintain that they are infallible with respect to the general politics of the Union ?

One gentleman had enumerated the formidable powers of the Senate, and closed the detail by a piteous description of the flowing, adamant wall. He had mentioned the power to try *impeachments*. But the power of impeaching was in the House of Representatives, and that was the important power. It could hardly be supposed that the representatives would exercise this power for the purposes of tyranny ; but if they should, it certainly could be of no disadvantage to enable the Senate to check them. In the next place, he said, the power of *appointing officers* was mentioned. This was unfairly stated ; the Senate had but a negative upon the President ; they had only an advisory power. In making laws they had only a partial agency ; they were checked by the representatives and President. To any unprejudiced examiner, he said, it would appear that the Constitution had provided every reasonable check, and that the authority of the Senate was sufficiently circumscribed. But the gentlemen would multiply checks till the new government was as relaxed and nerveless as the old one.

The Hon. MR. SMITH took notice of the remark of one of the gentlemen, that a majority of the states would not

agree to the amendment. He wondered whence the gentleman derived his knowledge. It was true no state had yet proposed it; but it was equally true that we had not yet fully obtained the sentiments of any Convention respecting amendments. The Constitution had been carried in most of the states, in such a manner that no opportunity was afforded of bringing forward and discussing them.

With respect to the change of circumstances which had such a solemn effect upon the honorable gentleman, he confessed it had not altered his feelings or wishes on the subject. He had long been convinced that nine states would receive the Constitution. The gentleman had taken great pains to prove that the state legislatures would be influenced by the same passions and erroneous views which actuated the people at large. For his own part, he did not understand such reasoning; he had always been taught that the state legislatures were select bodies of men, chosen for their superior wisdom, and so organized as to be capable of calm and regular conduct. It had been observed, that the Senate was only a *check*; if this was true, he begged to be informed where the positive power was lodged. The House of Representatives had been held up as a check; the Senate had been held up as a check. At this rate, it was a government of negative powers. It had also been remarked that no man could be qualified for the office of senator till he had had a long experience, because there was a certain kind of knowledge necessary, which could only be acquired in the Senate. But, if the policy of the government was such, said he, as to keep in the senators till they died, or were displaced, we should always have but a few men who were acquainted with the duties of their office. The best way was to limit them to six years; and then let them come home. We should then always have a large number of men capable of serving their country in any dangerous conjuncture.

Hon. Mr. LANSING. Mr. Chairman, I do not rise to speak to the paragraph under consideration, but to make some remarks on the sentiments of the honorable gentleman from New York, respecting the change in our situation. That our particular circumstances are in fact altered since yesterday, I cannot agree. It is true, we have received information that the *ninth state has ratified the Constitution*; but I contend that no such event ought to influence our delibera-

tions. I presume I shall not be charged with rashness, if I continue to insist that it is still our duty to maintain our rights. We acknowledge that our dissent cannot prevent the operation of the government: since nine states have acceded to it, let them make the experiment. It has been said that some might contemplate disunion without terror. I have heard no sentiment from any gentleman that can warrant such an insinuation. We ought not, however, to suffer our fears to force us to adopt a system which is dangerous to liberty. The idea of the importance of this state has not been entertained by any in sentiment with me. The suggestion first came from the other side of the house. It was nothing more than a false construction of our argument, that if, unfortunately, a disunion should take place, we were not in so bad a situation that we could not provide for our safety independently of the other states. Sir, I know not any gentleman who wishes for a dissolution of the Union. I make this remark because an idea has been circulated, that there are certain persons in this body who are disposed to dissolve the Union, which I am persuaded is utterly false.

Several paragraphs of section 3d being passed over without debate, the 4th section of article 1 was read; when

Mr. JONES rose, and observed, that it was a fact universally known, that the present Confederation had not proved adequate to the purposes of good government. Whether this arose from the want of powers in the federal head, or from other causes, he would not pretend to determine. Some parts of the proposed plan appeared to him imperfect, or at least not satisfactory. He did not think it right that Congress should have the power of prescribing or altering the time, place, and manner of holding elections. He apprehended that the clause might be so construed as to deprive the states of an essential right, which, in the true design of the Constitution, was to be reserved to them. He therefore wished the clause might be explained, and proposed, for the purpose, the following amendment:—

Resolved, as the opinion of this committee, that nothing in the Constitution, now under consideration, shall be construed to authorize the Congress to make or alter *any regulations*, in any state, respecting the times, places, or manner of holding elections for senators or representatives, unless the legislature of such state shall neglect or refuse to make laws or regulations for the purpose, or, from any circumstance, be incapable of

making the same, and then only until the legislature of such state shall make provision in the premises."

The Hon. Mr. JAY said that, as far as he understood the idéas of the gentleman, he seemed to have doubts with respect to this paragraph, and feared it might be misconstrued and abused. He said that every government was imperfect, unless it had a power of preserving itself. Suppose that, by design or accident, the states should *neglect to appoint representatives*; certainly there should be some constitutional remedy for this evil. The obvious meaning of the paragraph was, that, if this neglect should take place, Congress should have power, by law, to support the government, and prevent the dissolution of the Union. He believed this was the design of the federal Convention.

The Hon. R. MORRIS suggested, that, so far as the people, distinct from their legislatures, were concerned in the operation of the Constitution, it was absolutely necessary that the existence of the general government should not depend, for a moment, on the will of the state legislatures. The power of perpetuating the government ought to belong to their federal representatives; otherwise, the right of the people would be essentially abridged.

His excellency, Governor CLINTON, rose, just to notice the attempts that had been made to influence the committee by fear, and to introduce gloomy reflections upon the situation of the state. This had been done in heightened colors, and, he thought, in an indelicate manner. He said, he had observed also, in the course of the debates, that a distinction had been kept up between the state legislatures and the representatives of the people, and also between the legislatures and the senators. He did not think these distinctions warrantable. They were distinctions which would never appear in operation, while the government was well administered. It was true, he said, the representatives of the people, and the senators, might deviate from their duty, and express a will distinct from that of the people, or that of the legislatures; but any body might see that this must arise from corruption. Congress, in all its branches, was to speak the will of the people, and that will was law, and must be uniform. The distinction, therefore, of the honorable gentleman could have no proper weight in the discussion of this question.

Mr. JAY did not think the gentleman had taken up the matter right. The *will of the people* certainly ought to be the law, but the only question was, How was this will to be expressed:—whether the will of the people, with respect to the time, place, and manner of holding elections, ought to be expressed by the general government, or by the state legislatures.

Mr. M. SMITH proposed the following addition to Mr. Jones's motion:—

“And that each state shall be divided into as many districts as the representatives it is entitled to, and that each representative shall be chosen by a majority of votes.”

But on suggestion that this motion was ill timed, it was withdrawn for the present.

THURSDAY, *June 26.*—Mr. SMITH again moved the additional amendment proposed the preceding day; when the Hon. Mr. DUANE called on him to explain the motives which induced his proposal.

Mr. SMITH expressed his surprise that the gentleman should want such an explanation. He conceived that the amendment was founded on the fundamental principles of representative government. As the Constitution stood, the whole state might be a single district for election. This would be improper. The state should be divided into as many districts as it sends representatives. The whole number of representatives might otherwise be taken from a small part of the state, and the bulk of the people, therefore, might not be fully represented. He would say no more at present on the propriety of the amendment. The principle appeared to him so evident, that he hardly knew how to reason upon it, until he heard the arguments of the gentlemen in opposition.

Mr. DUANE. I will not examine the merits of the measure the gentleman recommends. If the proposed mode of election be the best, the legislature of this state will undoubtedly adopt it. But I wish the gentleman to prove that his plan will be practicable, and will succeed. By the Constitution of this state, the representatives are apportioned among the counties, and it is wisely left to the people to choose whom they will, in their several counties, without any further division into districts. Sir, how do we know the proposal will be agreeable to the other states? Is every

state to be compelled to adopt our ideas on all subjects? If the gentleman will reflect, I believe he will be doubtful of the propriety of these things. Will it not seem extraordinary that any one state should presume to dictate to the Union? As the Constitution stands, it will be in the power of each state to regulate this important point. While the legislatures do their duty, the exercise of their discretion is sufficiently secured. Sir, this measure would carry with it a presumption which I should be sorry to see in the acts of this state. It is laying down, as a principle, that whatever may suit our interest or fancy should be imposed upon our sister states. This does not seem to correspond with that moderation which I hope to see in all the proceedings of this Convention.

Mr. SMITH. The gentleman misunderstands me. I did not mean the amendment to operate on the other states: they may use their discretion. The amendment is in the negative. The very design of it is to enable the states to act their discretion, without the control of Congress. So the gentleman's reasoning is directly against himself.

If the argument had any force, it would go against proposing any amendment at all; because, says the gentleman, it would be dictating to the Union. What is the object of our consultations? For my part, I do not know, unless we are to express our sentiments of the Constitution before we adopt it. It is only exercising the privilege of freemen; and shall we be debarred from this? It is said, it is left to the discretion of the states. If this were true, it would be all we contend for. But, sir, Congress can alter as they please any mode adopted by the states. What discretion is there here? The gentleman instances the Constitution of New York, as opposed to my argument. I believe that there are now gentlemen in this house, who were members of the Convention of this state, and who were inclined for an amendment like ~~this~~. It is to be regretted that it was not adopted. The fact is, as your Constitution stands, a man may have a seat in your legislature, who is not elected by a majority of his constituents. For my part, I know of no principle that ought to be more fully established than the right of election by a majority.

Mr. DUANE. I neglected to make one observation which I think weighty. The mode of *election* recommend-

ed by the gentleman must be attended with great embarrassments. His idea is, that a *majority* of all the votes should be necessary to return a member.

I will suppose a state divided into *districts*. How seldom will it happen that a majority of a district will unite their votes in favor of one man! In a neighboring state, where they have this mode of election, I have been told that it rarely happens that more than one half unite in a choice. The consequence is, they are obliged to make provision, by a previous election, for *nomination*, and another election for appointment; thus suffering the inconvenience of a double election. If the proposition was adopted, I believe we should be seldom represented — the election must be lost. The gentleman will, therefore, I presume, either abandon his project, or propose some remedy for the evil I have described.

Mr. SMITH. I think the example the gentleman adduces is in my favor. The states of Massachusetts and Connecticut have regulated elections in the mode I propose; but it has never been considered inconvenient, nor have the people ever been unrepresented. I mention this to show that the thing has not proved impracticable in those states. If not, why should it in New York?

After some further conversation, Mr. LANSING proposed the following modification of Mr. Smith's motion —

“ And that nothing in this Constitution shall be construed to prevent the legislature of any state to pass laws, from time to time, to divide such state into as many convenient districts as the state shall be entitled to elect representatives for Congress, nor to prevent such legislature from making provision, that the electors in each district shall choose a citizen of the United States, who shall have been an inhabitant of the district, for the term of one year immediately preceding the time of his election, for one of the representatives of such state.”

Which being added to the motion of Mr. Jones, the committee passed the succeeding paragraphs without debate, till they came to the 2d clause of section 6. Mr. LANSING then proposed the following amendment: —

“ No senator or representative shall, during the time for which he was elected, be appointed to any office under the authority of the United States, and no person holding any office under the United States shall be a member of either house during his continuance in office.”

On which no debate took place. The 7th section was also passed over, and the first paragraph of section 8 was read; when

The Hon. Mr. WILLIAMS spoke as follows: In the preamble, the intent of the Constitution, among other things, is declared to be, "to provide for the common defence, and promote the general welfare;" and in the clause under consideration, the power is in express words given to Congress "to provide for the common defence and general welfare." And in the last paragraph of the same section, there is an express authority to make all laws which shall be necessary and proper for the carrying into execution this power. It is therefore evident that the legislature, under this Constitution, may pass any law which they may think proper. It is true, the 9th section restrains their power with respect to certain objects. But these restrictions are very limited, some of them improper, some unimportant, and others not easily understood. Sir, Congress have authority to lay and collect taxes, duties, imposts, and excises, and to pass all laws which shall be necessary and proper for carrying this power into execution; and what limitation, if any, is set to the exercise of this power by the Constitution?

Sir, to detail the particulars comprehended in the general terms, *taxes, duties, imposts, and excises*, would take up more time than would be proper at present; indeed, it would be a task far beyond my ability, and to which no one can be competent, unless possessed of a mind capable of comprehending every possible source of revenue; for they extend to every possible means of raising money, whether by direct or indirect taxation. Under this clause may be imposed a poll-tax, a tax on houses and buildings, on windows and fireplaces, on cattle, and on all kinds of personal property. It extends to duties on all kinds of goods, to tonnage and poundage of vessels, to duties on written instruments, newspapers, almanacs, &c. It comprehends an excise on all kinds of liquors, spirits, wine, cider, beer, &c.; indeed, on every necessary or convenience of life, whether of foreign or home growth or manufacture. In short, we can have no conception of any way in which a government can raise money from the people, but what is included in one or the other of these general terms. Every source of revenue is therefore committed to the hands of the general legislature. Not only these terms are very comprehensive, and extend to a vast number of objects, but the power to lay and collect has great latitude: it will lead to the passing of a vast num-

ber of laws, which may affect the personal rights of the citizens of the states, and put their lives in jeopardy. It will open a door to the appointment of a swarm of revenue and excise officers, to prey upon the honest and industrious part of the community.

Let us inquire also what is implied in the authority to pass all laws which shall be necessary and proper to carry this power into execution. It is perhaps utterly impossible fully to define this power. The authority granted in the first clause can only be understood, in its full extent, by descending to all the particular cases in which a revenue can be raised. The number and variety of these cases are so endless, that no man hath yet been able to reckon them up. The greatest geniuses of the world have been for ages employed in the research, and when mankind had supposed the subject was exhausted, they have been astonished with the refined improvements that have been made in modern times, and especially in the English nation, on the subject. If, then, the objects of this power cannot be comprehended, how is it possible to understand the extent of that power which can pass all laws that may be necessary and proper for carrying it into execution? A case cannot be conceived which is not included in this power. It is well known that the subject of revenue is the most difficult and extensive in the science of government: it requires the greatest talents of a statesman, and the most numerous and exact provisions of a legislature. The command of the revenues of a state gives the command of every thing in it. He that hath the purse will have the sword; and they that have both have every thing; so that Congress will have every source from which money can be drawn.

I should enlarge on this subject, but as the usual time draws near for an adjournment, I conclude with this remark, — that I conceive the paragraph gives too great a power to Congress; and in order that the state governments should have some resource of revenue, and the means of support, I beg leave to offer the following resolution: —

Resolved, That no excise shall be imposed on any article of the growth or manufacture of the United States or any part of them; and that Congress do not lay direct taxes, but when moneys arising from the impost and excise are insufficient for the public exigencies; nor then, until Congress shall first have made a requisition upon the states, to assess,

levy, and pay their respective proportion of such requisition, agreeably to the census fixed in the said Constitution, in such way and manner as the legislatures of the respective states shall judge best; and in such case, if any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion, together with interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed in such requisition."

FRIDAY, June 27, Section 8 was again read, and

The Hon. Mr. SMITH rose. We are now come to a part of the system which requires our utmost attention and most careful investigation. It is necessary that the powers vested in government should be precisely defined, that the people may be able to know whether it moves in the circle of the Constitution. It is the more necessary in governments like the one under examination, because Congress here is to be considered as only a part of a complex system. The *state governments* are necessary for certain local purposes; the *general government* for national purposes. The latter ought to rest on the former, not only in its form, but in its operations. It is therefore of the highest importance that the line of jurisdiction should be accurately drawn; it is necessary, sir, in order to maintain harmony between the governments, and to prevent the constant interference which must either be the cause of perpetual differences, or oblige one to yield, perhaps unjustly, to the other. I conceive the system cannot operate well, unless it is so contrived as to preserve harmony. If this be not done, in every contest, the weak must submit to the strong. The clause before us is of the greatest importance: it respects the very vital principle of government. The power is the most efficient and comprehensive that can be delegated, and seems in some measure to answer for all others. I believe it will appear evident that money must be raised for the support of both governments. If, therefore, you give to one or the other a power which may, in its operation, become exclusive, it is obvious that one can exist only at the will of the other, and must ultimately be sacrificed. The power of the general government extends to the raising of money, in all possible ways, except by duties on exports; to the laying taxes on imports, lands, buildings, and even on persons. The individual states, in time, will be allowed to raise no money at all: the United States will have a right to raise money from every quarter. The general government has moreover. this

advantage—all disputes relative to jurisdiction must be decided in a federal court.

It is a general maxim, that all governments find a use for as much money as they can raise. Indeed, they have commonly demands for more. Hence it is that all, as far as we are acquainted, are in debt. I take this to be a settled truth, that they will all spend as much as their revenue; that is, will live at least up to their income. Congress will ever exercise their powers to levy as much money as the people can pay. They will not be restrained from direct taxes by the consideration that necessity does not require them. If they forbear, it will be because the people cannot answer their demands. There will be no possibility of preventing the clashing of jurisdictions, unless some system of accommodation is formed. Suppose taxes are laid by both governments on the same article. It seems to me impossible that they can operate with harmony. I have no more conception, that, in taxation, two powers can act together, than that two bodies can occupy the same place. They will therefore not only interfere, but they will be hostile to each other. Here are to be two lists of all kinds of officers—supervisors, assessors, constables, &c., employed in this business. It is unnecessary that I should enter into a minute detail, to prove that these complex powers cannot operate peaceably together, and without one being overpowered by the other. On one day, the continental collector calls for the tax; he seizes a horse: the next, the state collector comes, procures a replevin, and retakes the horse, to satisfy the state tax. I just mention this to show that the people will not submit to such a government, and that finally it must defeat itself.

It must appear evident that there will be a constant jarring of claims and interests. Now, will the states, in this contest, stand any chance of success? If they will, there is less necessity for our amendment. But consider the superior advantages of the general government. Consider their extensive, exclusive revenues, the vast sums of money they can command, and the means they thereby possess of supporting a powerful standing force. The states, on the contrary, will not have the command of a shilling or a soldier. The two governments will be like two men contending for a certain property. The one has no interest but that which

is the subject of the controversy, while the other has money enough to carry on the lawsuit for twenty years. By this clause unlimited powers in taxation are given. Another clause declares that Congress shall have power to make all laws necessary to carry the Constitution into effect. Nothing, therefore, is left to *construction*; but the powers are most express. How far the state legislatures will be able to command a revenue, every man, on viewing the subject, can determine. If he contemplates the ordinary operation of causes, he will be convinced that the powers of the confederacy will swallow up those of the members. I do not suppose that this effect will be brought about suddenly. As long as the people feel universally and strongly attached to the state governments, Congress will not be able to accomplish it. If they act prudently, their powers will operate and be increased by degrees. The tendency of taxation, though it be moderate, is to lessen the attachment of the citizens. If it becomes oppressive, it will certainly destroy their confidence. While the general taxes are sufficiently heavy, every attempt of the states to enhance them will be considered as a tyrannical act, and the people will lose their respect and affection for a government which cannot support itself without the most grievous impositions upon them. If the Constitution is accepted as it stands, I am convinced that in seven years as much will be said against the state governments as is now said in favor of the proposed system.

Sir, I contemplate the abolition of the *state constitutions* as an event fatal to the liberties of America. These liberties will not be violently wrested from the people; they will be undermined and gradually consumed. On subjects of the kind we cannot be too critical. The investigation is difficult, because we have no examples to serve as guides. The world has never seen such a government over such a country. If we consult authorities in this matter, they will declare the impracticability of governing a free people on such an extensive plan. In a country where a portion of the people live more than twelve hundred miles from the centre, I think that one body cannot possibly legislate for the whole. Can the legislature frame a system of taxation that will operate with uniform advantages? Can they carry any system into execution? Will it not give occasion for

an innumerable swarm of officers, to infest our country and consume our substance? People will be subject to impositions which they cannot support, and of which their complaints can never reach the government.

Another idea is in my mind, which I think conclusive against a simple government for the United States. It is not possible to collect a set of representatives who are acquainted with all parts of the continent. Can you find men in Georgia who are acquainted with the situation of New Hampshire, who know what taxes will best suit the inhabitants, and how much they are able to bear? Can the best men make laws for the people of whom they are entirely ignorant? Sir, we have no reason to hold our state governments in contempt, or to suppose them incapable of acting wisely. I believe they have operated more beneficially than most people expected, who considered that those governments were erected in a time of war and confusion, when they were very liable to errors in their structure. It will be a matter of astonishment to all unprejudiced men hereafter, who shall reflect upon our situation, to observe to what a great degree good government has prevailed. It is true some bad laws have been passed in most of the states; but they arose from the difficulty of the times rather than from any want of honesty or wisdom. Perhaps there never was a government which, in the course of ten years, did not do something to be repented of. As for Rhode Island, I do not mean to justify her; she deserves to be condemned. If there were in the world but one example of political depravity, it would be hers; and no nation ever merited, or suffered, a more genuine infamy than a wicked administration has attached to her character. Massachusetts also has been guilty of errors, and has lately been distracted by an internal convulsion. Great Britain, notwithstanding her boasted constitution, has been a perpetual scene of revolutions and civil war. Her Parliaments have been abolished; her kings have been banished and murdered. I assert that the majority of the governments in the Union have operated better than any body had reason to expect, and that nothing but experience and habit is wanting to give the state laws all the stability and wisdom necessary to make them respectable. If these things be true, I think we ought not to exchange our condition, with a hazard of losing our state constitutions. We

all agree that a general government is necessary ; but it ought not to go so far as to destroy the authority of the members. We shall be unwise to make a new experiment, in so important a matter, without some known and sure grounds to go upon. The state constitutions should be the guardians of our domestic rights and interests, and should be both the support and the check of the federal government.

The want of the means of raising a general revenue has been the principal cause of our difficulties. I believe no man will doubt that, if our present Congress had money enough, there would be but few complaints of their weakness. Requisitions have perhaps been too much condemned. What has been their actual operation ? Let us attend to experience, and see if they are such poor, unproductive things as is commonly supposed. If I calculate right, the requisitions for the ten years past have amounted to thirty-six millions of dollars ; of which twenty-four millions, or two thirds, have been actually paid. Does not this fact warrant a conclusion that some reliance is to be placed on this mode ? Besides, will any gentleman say that the states have generally been able to collect more than two thirds of their taxes from the people ? The delinquency of some states has arisen from the fluctuations of paper money, &c. Indeed, it is my decided opinion, that no government, in the difficult circumstances which we have passed through, will be able to realize more than two thirds of the taxes it imposes. I might suggest two other considerations which have weight with me. There has probably been more money called for than was actually wanted, on the expectation of delinquencies ; and it is equally probable that, in a short course of time, the increasing ability of the country will render requisitions a much more efficient mode of raising a revenue. The war left the people under very great burdens, and oppressed with both public and private debts. They are now fast emerging from their difficulties. Many individuals, without doubt, still feel great inconveniences ; but they will find a gradual remedy.

Sir, has any country which has suffered distresses like ours exhibited, within a few years, more striking marks of improvement and prosperity ? How its population has grown ! How its agriculture, commerce, and manufactures have been extended and improved ! How many forests have

been cut down! How many wastes have been cleared and cultivated! How many additions have been made to the extent and beauty of our towns and cities! I think our advancement has been rapid. In a few years, it is to be hoped that we shall be relieved from our embarrassments, and, unless new calamities come upon us, shall be flourishing and happy. Some difficulties will ever occur in the collection of taxes by any mode whatever. Some states will pay more, some less. If New York lays a tax, will not one county or district furnish more, another less, than its proportion? The same will happen to the United States as happens in New York, and in every other country. Let them impose a duty equal and uniform, those districts where there is plenty of money will pay punctually. Those in which money is scarce will be in some measure delinquent. The idea that Congress ought to have *unlimited powers* is entirely novel. I never heard it till the meeting of this Convention. The general government once called on the states to invest them with the command of funds adequate to the exigencies of the Union; but they did not ask to command all the resources of the states. They did not wish to have a control over all the property of the people. If we now give them this control, we may as well give up the state governments with it. I have no notion of setting the two powers at variance; nor would I give a farthing for a government which could not command a farthing. On the whole, it appears to me probable, that, unless some certain specific source of *revenue* is reserved to the states, their governments, with their independency, will be totally annihilated.

Mr. WILLIAMS. Yesterday I had the honor of laying before the committee objections to the clause under consideration, which I flatter myself were forcible. They were, *however, treated by the gentlemen on the other side as general observations*, and unimportant in their nature. It is not necessary, nor indeed would it consist with delicacy, to give my opinion as to what cause their silence is imputable. Let them now step forward, and refute the objections which have been stated by an honorable gentleman from Duchess, who spoke last, and those which I expect will be alleged by gentlemen more capable than myself — by gentlemen who are able to advance arguments which require the exertion of their own great abilities to overcome. In the mean time, I re-

state to be compelled to adopt our ideas on all subjects? If the gentleman will reflect, I believe he will be doubtful of the propriety of these things. Will it not seem extraordinary that any one state should presume to dictate to the Union? As the Constitution stands, it will be in the power of each state to regulate this important point. While the legislatures do their duty, the exercise of their discretion is sufficiently secured. Sir, this measure would carry with it a presumption which I should be sorry to see in the acts of this state. It is laying down, as a principle, that whatever may suit our interest or fancy should be imposed upon our sister states. This does not seem to correspond with that moderation which I hope to see in all the proceedings of this Convention.

Mr. SMITH. The gentleman misunderstands me. I did not mean the amendment to operate on the other states: they may use their discretion. The amendment is in the negative. The very design of it is to enable the states to act their discretion, without the control of Congress. So the gentleman's reasoning is directly against himself.

If the argument had any force, it would go against proposing any amendment at all; because, says the gentleman, it would be dictating to the Union. What is the object of our consultations? For my part, I do not know, unless we are to express our sentiments of the Constitution before we adopt it. It is only exercising the privilege of freemen; and shall we be debarred from this? It is said, it is left to the discretion of the states. If this were true, it would be all we contend for. But, sir, Congress can alter as they please any mode adopted by the states. What discretion is there here? The gentleman instances the Constitution of New York, as opposed to my argument. I believe that there are now gentlemen in this house, who were members of the Convention of this state, and who were inclined for an amendment like ~~this~~. It is to be regretted that it was not adopted. The fact is, as your Constitution stands, a man may have a seat in your legislature, who is not elected by a majority of his constituents. For my part, I know of no principle that ought to be more fully established than the right of election by a majority.

Mr. DUANE. I neglected to make one observation which I think weighty. The mode of *election* recommend-

ed by the gentleman must be attended with great embarrassments. His idea is, that a *majority* of all the votes should be necessary to return a member.

I will suppose a state divided into *districts*. How seldom will it happen that a majority of a district will unite their votes in favor of one man! In a neighboring state, where they have this mode of election, I have been told that it rarely happens that more than one half unite in a choice. The consequence is, they are obliged to make provision, by a previous election, for *nomination*, and another election for appointment; thus suffering the inconvenience of a double election. If the proposition was adopted, I believe we should be seldom represented — the election must be lost. The gentleman will, therefore, I presume, either abandon his project, or propose some remedy for the evil I have described.

Mr. SMITH. I think the example the gentleman adduces is in my favor. The states of Massachusetts and Connecticut have regulated elections in the mode I propose; but it has never been considered inconvenient, nor have the people ever been unrepresented. I mention this to show that the thing has not proved impracticable in those states. If not, why should it in New York?

After some further conversation, Mr. LANSING proposed the following modification of Mr. Smith's motion —

“And that nothing in this Constitution shall be construed to prevent the legislature of any state to pass laws, from time to time, to divide such state into as many convenient districts as the state shall be entitled to elect representatives for Congress, nor to prevent such legislature from making provision, that the electors in each district shall choose a citizen of the United States, who shall have been an inhabitant of the district, for the term of one year immediately preceding the time of his election, for one of the representatives of such state.”

Which being added to the motion of Mr. Jones, the committee passed the succeeding paragraphs without debate, till they came to the 2d clause of section 6. Mr. LANSING then proposed the following amendment: —

“No senator or representative shall, during the time for which he was elected, be appointed to any office under the authority of the United States, and no person holding any office under the United States shall be a member of either house during his continuance in office.”

On which no debate took place. The 7th section was also passed over, and the first paragraph of section 8 was read; when

by some as bugbears ; but, sir, if we reason from the practice of all governments, we must acknowledge at least the probability of the thing. In England, for instance, the people are not only oppressed with a variety of other heavy taxes, but, if my information is right, absolutely pay taxes for births, marriages, and deaths, for the light of heaven, and even for paying their debts. What reason have we to suppose that our rulers will be more sympathetic, and heap lighter burdens upon their constituents than the rulers of other countries ? If crossing the Atlantic can make men virtuous and just, I acknowledge that they will be forever good and excellent rulers ; but otherwise, I must consider them as I do the magistrates of all other countries. Sir, a capitation is an oppressive species of tax. This may be laid by the general government. Where an equality in property exists, it is a just and good tax ; it is a tax easy to assess, and on this account eligible ; but, where a great disparity of fortune exists, as in this state, I insist upon it, that it is a most unjust, unequal, and ruinous tax. It is heaping all the support of the government upon the poor ; it is making them beasts of burden to the rich ; and it is probable it will be laid, if not stifled in the womb ; because I think it almost morally certain that this new government will be administered by the wealthy. Will they not be interested in the establishment of a tax that will cause them to pay no more, for the defraying the public expenditures, than the poorest man in America ?

The great Montesquieu says, that a poll tax upon the person is indicative of despotism, and that a tax upon property is congenial with the spirit of a free government. These, sir, are a few of the many reasons that render the clause defective, in my mind. I might here mention the dangers to freedom from an excise ; but I forbear. I ought not to engross the attention of the committee, when it can be more usefully improved by gentlemen of more abilities than myself — gentlemen who, I trust, will paint in the clearest colors the impropriety and danger of this, as well as they have done of the other paragraphs. Sir, as I remarked before, if this power is given to the general government, without some such amendment as I proposed, it will annihilate all the powers of the state governments. There cannot be a greater solecism in politics than to talk of power in government without the

command of any revenue : it is as absurd as to talk of an animal without blood, or of subsistence without food.

Mr. Chancellor LIVINGSTON. Mr. Chairman, I shall readily agree with the honorable member from Duchess, that no government can exist without revenues; that we ought to avoid a consolidation of the states; and that the extent of our country will not admit of a representation upon principles in any great degree democratic. These concessions are entirely indifferent to the point of dispute. But, sir, we will examine the amendment particularly, and adduce only such principles as immediately apply to it.

The first proposition in the amendment is, that no *excise* shall be laid on the manufactures of the United States; the second, that a requisition shall precede the imposition of a direct tax. The object of the first is to prevent our infant manufactures from being overburdened. Sir, if the manufactures of this country were always to be in a state of infancy, if the amendment were only a temporary expedient, the provision might consist with good policy; but, at a future day, an enlarged population will render us a manufacturing people. The imposts will then necessarily lessen, and the public wants will call for new sources of revenue. These sources will be multiplied with the increase of our wealth; and necessity, as well as policy, will induce us to improve them. We may naturally suppose that wines, brandy, spirits, salt liquors, &c., will be among the first subjects of excise. These are proper objects of taxation, not only as they will be very productive, but as charges on them will be favorable to the morals of the citizens. It should be considered that the burdens of government will be supported by the United States. They are to pay the interest of loans; they are to maintain the army and navy, and the most expensive civil establishment. If the individual states had any concern in these capital expenses, it would be proper that they should command the means of defraying them. But if you impose upon the Union all the burdens, and take from them a principal resource, what will they do when the imposts diminish, and the expenses of government increase? Why, they must have recourse to direct taxes; that is, taxes on land, and specific duties. Will this be a mode of raising money the most agreeable and satisfactory to the people? The gentlemen seem to calculate only from present appear-

ances : they would insert in the Constitution a clause which in time may deprive the United States of a fruitful and in dispensable branch of revenue. I presume, sir, that, on deliberate reflection, they will see the impropriety of this part of the amendment.

The second part is of the greatest importance ; its object is to prevent Congress from laying *direct taxes* in any of the states till they have previously made requisitions. Let us examine whether this measure will be compatible with sound policy : let us reason from experience. We have seen something of requisitions—enough, one would suppose, to make us exceedingly suspicious of them. We all know how they have hitherto operated. There are no arguments so forcible as those drawn from facts within our own knowledge. We may form as many conjectures and hypotheses as we please, but shall ever recur at last to experience as a sure guide. The gentlemen will, without doubt, allow that the United States will be subject to the same kind of expenses, and will have the same demand for money, as other nations. There are no governments that have not been obliged to levy direct taxes, and even procure loans, to answer the public wants ; there are no governments which have not, in certain emergencies, been compelled to call for all the capital resources of the country. This may be the situation of the United States : we hope not in our day ; but we must not presume it will never happen. Indeed, the motion itself is made upon the contemplation of this event. We conclude, therefore, that the gentleman who brought it forward is convinced that the necessities of government will call for more money than external and indirect taxation can produce. Our business, then, is to consider the mode recommended by the gentleman, and see whether it can possibly furnish supplies adequate to the exigencies of government. He says, Let requisitions precede coercion. Sir, what are these requisitions ? What are these pompous petitions for public charity, which have made so much noise, and brought so little cash into the treasury ? Have we not sported with the bubble long enough to discover its emptiness ? What have requisitions done ? Have they paid off our foreign and domestic debts ? Have they supported our civil and small military establishments ? The gentleman declares that a great sum has been paid ; he includes the bounties given to the soldiers. Were not these

obtained by coercion on individuals? Let him deduct these bounties, and he will find the amount actually paid to be extremely small. We know that the states which have paid most have not fully complied with the requisitions: some have contributed little, and some nothing. The gentleman also says, that delinquencies have been occasioned by the distresses of the war. Facts prove the contrary. New Hampshire has hardly felt the calamities of the war, and yet that state has paid little or nothing to the treasury. These circumstances show that the motives for compliance, which, during the contest, were as strong as they could be in any possible situation, have never been sufficient to produce any considerable exertions. Necessity of circumstances, which operates with almost a physical energy, alone procured any tolerable supplies. Thus the state of New York, which was continually the seat of war, was more punctual than the other states. The neighboring states afforded something, apparently in proportion to their sense of danger. When the enemy appeared in any state, we find them making efforts, and wearing at once a very federal complexion. If we look at the accounts of South Carolina, we shall find that they are credited for supplies furnished in their own state, and furnished only while the enemy were in the midst of them.

I imagine, sir, that *indirect taxes* will be generally sufficient in time of peace. But a constitution should be calculated for all circumstances—for the most critical and dangerous conjunctures. Let us suppose a sudden emergency, in which the ordinary resources are entirely inadequate to the public wants, and see what difficulties present themselves on the gentleman's plan. First, a requisition is to go out to all the states. It is by no means probable that half their legislatures will be in session; perhaps none of them. In the next place, they must be convened solely to consider the requisition. When assembled, some may agree to it; some may totally refuse; others may be dilatory, and contrive plausible excuses for delay. This is an exact picture of the proceedings on this subject which have taken place for a number of years. While these complicated and lingering operations are going on, the crisis may be passed, and the Union may be thrown into embarrassments, or involved in ruin. But immediately on refusal, the amendment proposes compulsion. This supposes that a complete establishment of ex

ecutive officers must be constantly maintained, and that they will have firmness enough to oppose and set aside the law of the state. Can it be imagined, by any rational man, that the legislature of a state, which has solemnly declared that it will not grant a requisition, will suffer a tax for the same to be immediately levied on its citizens? We are then brought to this dilemma — either the collectors could not be so hardy as to disregard the laws of the states, or an internal war will take place. But, on either of these events, what becomes of the requisition and the tax? Sir, is there a people under heaven, who, countenanced and imboldened by the voice of their state legislatures, will ever pay a farthing of such a tax? They will resist it as they would a foreign tribute, or the invasion of an enemy. Under such circumstances, will Congress be able to borrow? We all know what has been the difficulty of procuring *loans*: we are sensible that foreign loans could not have been procured at all, had not the lenders been greatly interested in the success of the revolution. Besides, they undoubtedly expected such a change in our government as would enable the United States to provide efficient funds. Now, we are forming a constitution for ages, which will forever preclude the establishment of any certain funds. What hopes have we of borrowing, unless we have something to pledge for payment? And the avails of direct taxes are the only positive fund which can be pledged. I presume the impost and excise will not be more than sufficient to fund the debts we now owe. If future wars should lead us into extraordinary expenses, it will be necessary not only to lay direct taxes, but to procure new loans, to support those expenses.

Sir, if these reflections should have little weight with other states, they ought certainly to influence us, as we are a navigating state, and, from our local situation, shall be the first to suffer. This state will probably be the theatre of war. Gentlemen should remember that for a time we were compelled to bear almost the whole weight of the last war. If we form this Constitution so as to take away from the Union the means of protecting us, we must, in a future war, either be ruined by the enemy, or ruined by our exertions to protect ourselves. If the gentlemen acknowledge the necessities I have described may exist, they should be willing to give Congress the fullest power to provide for them

But the point on which gentlemen appear to dwell with most attention and concern, is the *jurisdiction* of the united and individual states, in taxation. They say a concurrent jurisdiction cannot exist, and that the two powers will clash, and one or the other must be overpowered. Their arguments are considerably plausible ; but if we investigate this matter properly, we shall see that the dangers they apprehend are merely ideal. Their fears originate in a supposed corruption of Congress ; for, if the state governments are valuable and necessary to the system, it cannot be imagined that the representatives of the people, while they have a single principle of honesty, will consent to abolish them. If I proceeded here to prove the improbability of corruption, I should only repeat arguments which the committee have already heard most clearly and copiously detailed. The fact is, that, in our present state of society, and under the operation of this Constitution, interest and integrity will be connected by the closest ties. Interest will form a check which nothing can overcome. On interest, sir, we rest our principal hopes of safety. Your state government has the unlimited power over the purse and the sword : why do you not fear that your rulers will raise armies, to oppress and enslave the citizens ? Clearly, because you feel a confidence in the men you elect ; and that confidence is founded on the conviction you have that tyranny is totally inconsistent with their interest. You will give up to your state legislatures every thing dear and valuable ; but you will give no power to Congress, because it may be abused ; you will give them no revenue, because the public treasures may be squandered. But do you not see here a capital check ? Congress are to publish, from time to time, an account of their receipts and expenditures. These may be compared together ; and if the former, year after year, exceed the latter, the corruption will be detected, and the people may use the constitutional mode of redress. The gentleman admits that corruption will not take place immediately : its operations can only be conducted by a long series and a steady system of measures. These measures will be easily defeated, even if the people are unapprized of them. They will be defeated by that continual change of members, which naturally takes place in free governments, arising from the disaffection and inconstancy of the people. A changeable assembly will be entirely incapable of con-

ducting a system of mischief; they will meet with obstacles and embarrassments on every side.

It is observed that, if the general government are disposed, they can levy taxes exclusively. But, sir, they have not an exclusive right, except in a few specific cases. Their right is only concurrent. Let us see if the taxes will be exclusive in their operation. Whatever the gentleman may conjecture, I think it hardly possible that, when a state has laid a large duty upon a particular article, the Congress will be so unwise as to impose another upon the same, unless in extraordinary emergencies. There are certain capital subjects of taxation, which both the general and state governments must improve. But it is remarked that two taxes cannot operate together without confusion. Sir, experience has proved the contrary. We have state taxes, county taxes, and corporation taxes. How do these operate together? It is true that in some places they are collected by the same man; and probably also the federal and state taxes will be. But this is not material. It is the taxes, not the collectors, that are to contend; and if the taxes are incompatible with each other, a single collector, acting in different capacities, must go through the same ceremony of seizure, replevin, &c., which the gentleman has so humorously described. If the state collector gets the horse first, I suppose he will have the first satisfaction; and so the federal collector. Of what importance is it, whether a man pays forty shillings to one, or twenty shillings each, to two officers? I have never learned that there has been any clashing or confusion in the collection of our taxes. It is to be supposed that we have resources sufficient for the support of both the general and state governments: if this be not true, we may as well discard the system altogether, and either dissolve our Union, or form a simple consolidated government. But we presume, very justly, that the system will find ample resources for its support, as it stands. If this be acknowledged, I see no difficulty in the matter. The people have so much to pay; if they can afford this, if it be ready for the proper officers, what should occasion a quarrel between them? As for the gentleman's principle, that every government can raise more money than it can use, I confess I do not understand it.

It appears to me that the people cannot be very anxious

about the particular channel through which their money flows into the federal treasury. They have such and such taxes to pay: can it be a matter of concern to them whether they are levied by a law of their state, or by a law of Congress? If they have any preference, one would suppose it would be for the latter mode; for that will be the least expensive.

In this argument, sir, I have endeavored to confine myself to the true point of dispute, and have taken notice of those observations only which appeared to me to be applicable. I beg the committee to keep in mind, as an important idea, that the accounts of the general government are, "from time to time," to be submitted to the public inspection.

Hon. Mr. SMITH remarked, that "from time to time" might mean from century to century, or any period of twenty or thirty years.

The CHANCELLOR asked if the public were more anxious about any thing under heaven than the expenditure of money. Will not the representatives, said he, consider it as essential to their popularity, to gratify their constituents with full and frequent statements of the public accounts? There can be no doubt of it.

The Hon. Mr. HAMILTON. This is one of those subjects, Mr. Chairman, on which objections very naturally arise, and assume the most plausible shape. Its address is to the passions, and its first impressions create a prejudice, before cool examination has an opportunity for exertion. It is more easy for the human mind to calculate the evils than the advantages of a measure; and vastly more natural to apprehend the danger than to see the necessity of giving powers to our rulers. Hence I may justly expect that those who hear me will place less confidence in those arguments which oppose, than in those which favor, their prepossessions.

After all our doubts, our suspicions, and speculations, on the subject of government, we must return at last to this important truth — that, when we have formed a constitution upon free principles, when we have given a proper balance to the different branches of administration, and fixed representation upon pure and equal principles, we may, with safety, furnish it with all the powers necessary to answer, in the most ample manner, the purposes of government. The great *desiderata* are, *free representation* and *mutual checks*.

When these are obtained, all our apprehensions of the extent of power are unjust and imaginary. What, then, is the structure of this Constitution? One branch of the legislature is to be elected by the people — by the same people who choose your state representatives. Its members are to hold their offices two years, and then *return to their constituents*. Here, sir, the people govern; here they act by their immediate representatives. You have also a Senate, constituted by your state legislatures, by men in whom you place the highest confidence, and forming another representative branch. Then, again, you have an executive magistracy, created by a form of election which merits universal admiration. In the form of this government, and in the mode of legislation, you find all the checks which the greatest politicians and the best writers have ever conceived. What more can reasonable men desire? Is there any one branch in which the whole legislative and executive powers are lodged? No. The legislative authority is lodged in three distinct branches, properly *balanced*; the executive is divided between two branches; and the judicial is still reserved for an independent body, who hold their office during good behavior. This organization is so complex, so skilfully contrived, that it is next to impossible that an impolitic or wicked measure should pass the scrutiny with success. Now, what do gentlemen mean by coming forward and demanding against this government? Why do they say we ought to limit its power, to disable it, and to destroy its capacity of blessing the people? Has philosophy suggested has experience taught, that such a government ought not to be trusted with every thing necessary for the good of society? Sir, when you have divided and nicely balanced departments of government; when you have strongly connected the virtue of your rulers with their interest; when in short, you have rendered your system as perfect as human forms can be, — you must place confidence; you must place confidence.

We have heard a great deal of the sword and the shield. It is said our liberties are in danger, if both are possessed by Congress. Let us see what is the true meaning of this maxim, which has been so much used, and so little understood. It is, that you shall not place these powers in the legislative or executive, singly; neither one nor

shall have both, because this would destroy that division of powers on which political liberty is founded, and would furnish one body with all the means of tyranny. But where the purse is lodged in one branch, and the sword in another, there can be no danger. All governments have possessed these powers: they would be monsters without them, and incapable of exertion. What is your state government? Does not your legislature command what money it pleases? Does not your executive execute the laws without restraint? These distinctions between the purse and the sword have no application to the system, but only to its separate branches. Sir, when we reason about the great interests of a free people, it is high time that we dismiss our prejudices, and banish declamation. In order to induce us to consider the powers given by this Constitution as dangerous, in order to render plausible an attempt to take away the life and spirit of the most important power in government, the gentleman complains that we shall not have a true and safe *representation*. I asked him what a safe representation was; and he has given no satisfactory answer. The Assembly of New York has been mentioned as a proper standard; but if we apply this standard to the general government, our Congress will become a mere *mob*, exposed to every irregular impulse, and subject to every breeze of faction. Can such a system afford security? Can you have confidence in such a body? The idea of taking the ratio of representation, in a small society, for the ratio of a great one, is a fallacy which ought to be exposed. It is impossible to ascertain to what point our representation will increase; it may vary from one, to two, three, or four hundred: it depends upon the progress of population. Suppose it to rest at two hundred; is not this number sufficient to secure it against corruption? Human nature must be a much more weak and despicable thing than I apprehend it to be, if two hundred of our fellow-citizens can be corrupted in two years. But suppose they are corrupted; can they, in two years, accomplish their designs? Can they form a combination, and even lay a foundation for a system of tyranny, in so short a period? It is far from my intention to wound the feelings of any gentleman; but I must, in this most interesting discussion, speak of things as they are, and hold up opinions in the light in which they ought to appear; and I maintain that all that

has been said of corruption, of the purse and the sword, and of the danger of giving powers, is not supported by principles or fact; that it is mere verbiage and idle declamation. The true principle of government is this — make the system complete in its structure, give a perfect proportion and balance to its parts, and the powers you give it will never affect your security. The question, then, of the *division of powers* between the general and state governments, is a question of convenience: it becomes a prudential inquiry, what powers are proper to be reserved to the latter; and this immediately involves another inquiry into the proper objects of the two governments. This is the criterion by which we shall determine the just distribution of powers.

The great leading objects of the federal government, in which revenue is concerned, are to maintain domestic peace, and provide for the common defence. In these are comprehended the regulation of commerce, — that is, the whole system of foreign intercourse, — the support of armies and navies, and of the civil administration. It is useless to go into detail. Every one knows that the objects of the general government are numerous, extensive, and important. Every one must acknowledge the necessity of giving powers, in all respects, and in every degree, equal to these objects. This principle assented to, let us inquire what are the objects of the state governments. Have they to provide against foreign invasion? Have they to maintain fleets and armies? Have they any concern in the regulation of commerce, the procuring alliances, or forming treaties of peace? No. Their objects are merely civil and domestic — to support the legislative establishment, and to provide for the administration of the laws.

Let any one compare the expense of supporting the civil list in a state with the expense of providing for the defence of the Union. The difference is almost beyond calculation. The experience of Great Britain will throw some light on this subject. In that kingdom, the ordinary expenses of peace to those of war are as one to fourteen. But there they have a monarch, with his splendid court, and an enormous civil establishment, with which we have nothing in this country to compare. If, in Great Britain, the expenses of war and peace are so disproportioned, how wide will be their disparity in the United States! How infinitely wider between

the general government and each individual state! Now, sir, where ought the great resources to be lodged? Every rational man will give an immediate answer. To what extent shall these resources be possessed? Reason says, As far as possible exigencies can require; that is, without limitation. A constitution cannot set bounds to a nation's wants; it ought not, therefore, to set bounds to its resources. Unexpected invasions, long and ruinous wars, may demand all the possible abilities of the country. Shall not your government have power to call these abilities into action? The contingencies of society are not reducible to calculations. They cannot be fixed or bounded, even in imagination. Will you limit the means of your defence, when you cannot ascertain the force or extent of the invasion? Even in ordinary wars, a government is frequently obliged to call for *supplies*, to the temporary oppression of the people.

Sir, if we adopt the idea of *exclusive revenues*, we shall be obliged to fix some distinguished line, which neither government shall overpass. The inconvenience of this measure must appear evident on the slightest examination. The resources appropriated to one may diminish or fail, while those of the other may increase beyond the wants of government. One may be destitute of revenues, while the other shall possess an unnecessary abundance; and the Constitution will be an eternal barrier to a mutual intercourse and relief. In this case, will the individual state stand on so good a ground as if the objects of taxation were left free and open to the embrace of both the governments? Possibly, in the advancement of commerce, the imposts may increase to such a degree as to render direct taxes unnecessary. These resources, then, as the Constitution stands, may be occasionally relinquished to the states; but on the gentleman's idea of prescribing exclusive limits, and precluding all reciprocal communication, this would be entirely improper. The laws of the states must not touch the appropriated resources of the United States, whatever may be their wants. Would it not be of much more advantage to the states to have a concurrent jurisdiction, extending to all the sources of revenue, than to be confined to such a small resource, as, in calculation of the objects of the two governments, should appear to be their due proportion? Certainly you cannot hesitate on this question. The gentleman's plan would have

a further ill effect ; it would tend to dissolve the connection and correspondence of the two governments, to estrange them from each other, and to destroy that mutual dependence which forms the essence of union.

Sir, a number of arguments have been advanced by an honorable member from New York, which to every unclouded mind must carry conviction. He has stated that, in certain emergencies, it may be necessary to *borrow* ; and that it is impossible to borrow, unless you have funds to pledge for the payment of your debts. Limiting the powers of government to certain resources, is rendering the fund precarious ; and obliging the government to ask, instead of empowering them to command, is to destroy all confidence and credit. If the power of taxing is restricted, the consequence is, that, on the breaking out of a war, you must divert the funds, appropriated to the payment of debts, to answer immediate exigencies. Thus you violate your engagements, at the very time you increase the burden of them. Besides, sound policy condemns the practice of accumulating debts. A government, to act with energy, should have the possession of all its revenues to answer present purposes. The principle for which I contend is recognized in all its extent by our old constitution. Congress is authorized to raise troops, to call for supplies without limitation, and to borrow money to any amount. It is true they must use the form of recommendations and requisitions ; but the states are bound by the solemn ties of honor, of justice, of religion, to comply without reserve.

Mr. Chairman, it has been advanced as a principle, that no government but a despotism can exist in a very extensive country. This is a melancholy consideration indeed. If it were founded on truth, we ought to dismiss the idea of a republican government, even for the state of New York. This idea has been taken from a celebrated writer, who, by being misunderstood, has been the occasion of frequent fallacies in our reasoning on political subjects. But the position has been misapprehended ; and its application is entirely false and unwarrantable : it relates only to democracies, where the whole body of the people meet to transact business, and where representation is unknown. Such were a number of ancient and some modern independent cities. Men who read without attention have taken these maxims

respecting the extent of country, and, contrary to their meaning, have applied them to republics in general. This application is wrong in respect to all representative governments, but especially in relation to a confederacy of states, in which the supreme legislature has only general powers, and the civil and domestic concerns of the people are regulated by the laws of the several states. This distinction being kept in view, all the difficulty will vanish, and we may easily conceive that the people of a large country may be represented as truly as those of a small one. An assembly constituted for general purposes may be fully competent to every federal regulation, without being too numerous for deliberate conduct. If the state governments were to be abolished, the question would wear a different face; but this idea is inadmissible. They are absolutely necessary to the system. Their existence must form a leading principle in the most perfect constitution we could form.

I insist that it never can be the interest or desire of the national legislature to destroy the *state governments*. It can derive no advantage from such an event; but, on the contrary, would lose an indispensable support, a necessary aid in executing the laws, and conveying the influence of government to the doors of the people. The Union is dependent on the will of the state governments for its chief magistrate, and for its Senate. The blow aimed at the members must give a fatal wound to the head; and the destruction of the states must be at once a political suicide. Can the national government be guilty of this madness? What inducements, what temptations, can they have? Will they attach new honors to their station? Will they increase the national strength? Will they multiply the national resources? Will they make themselves more respectable in the view of foreign nations, or of their fellow-citizens, by robbing the states of their constitutional privileges? But imagine, for a moment, that a political frenzy should seize the government; suppose they should make the attempt. Certainly, sir, it would be forever impracticable. This has been sufficiently demonstrated by reason and experience. It has been proved that the members of republics have been, and ever will be, stronger than the head. Let us attend to one general historical example: in the ancient *feudal governments* of Europe, there were, in the first place, a monarch;

subordinate to him, a body of nobles ; and subject to these, the vassals, or the whole body of the people. The authority of the kings was limited, and that of the *barons* considerably independent. A great part of the early wars in Europe were contests between the king and his nobility. In these contests, the latter possessed many advantages derived from their influence, and the immediate command they had over the people ; and they generally prevailed. The history of the feudal wars exhibits little more than a series of successful encroachments on the prerogatives of monarchy. Here, sir, is one great proof of the superiority which the members in limited governments possess over their head. As long as the barons enjoyed the confidence and attachment of the people, they had the strength of the country on their side, and were irresistible. I may be told that, in some instances, the barons were overcome ; but how did this happen ? Sir, they took advantage of the depression of the royal authority, and the establishment of their own power, to oppress and tyrannize over the vassals. As commerce enlarged, and as wealth and civilization increased, *the people* began to feel their own weight and consequence : they grew tired of their oppressions, united their strength with that of the prince, and threw off the yoke of *aristocracy*. These very instances prove what I contend for. They prove that in whatever direction the popular weight leans, the current of power will flow ; wherever the popular attachments lie, there will rest the political superiority. Sir, can it be supposed that the state will become the oppressors of the people ? Will they forfeit their affections ? Will they combine to destroy the liberties and happiness of their fellow-citizens, for the sole purpose of involving themselves in ruin ? God forbid ! The idea, sir, is shocking. It outrages every feeling of humanity, and every dictate of common sense.

There are certain social principles in human nature, from which we may draw the most solid conclusion with respect to the conduct of individuals and of communities. We love our families more than our neighbors ; we love our neighbors more than our countrymen in general. The human affections, like the solar heat, lose their intensity as they depart from the centre, and become languid in proportion to the expansion of the circle in which they act. On these principles, the attachment of the individual will be first and for-

ever secured by the state governments: they will be a mutual protection and support. Another source of influence, which has already been pointed out, is the various official connections in the states. Gentlemen endeavor to evade the force of this by saying that these officers will be insignificant. This is by no means true. The state officers will never be important, because they are necessary and useful. Their powers are such as are extremely interesting among the people; such as affect their property, their liberty, and life. What is more important than the administration of justice and the execution of the civil and criminal laws? Can the state governments become insignificant while they have the power of raising money independently, and without control? If they are really useful, if they are calculated to promote the essential interests of the people, they must have their confidence and support. The states can never lose their powers till the whole people of America are robbed of their liberties. These must go together; they must support each other, or meet one common fate. On the gentleman's principle we may safely trust the state governments, though we have no means of resisting them; but we cannot confide in the national government, though we have an effectual constitutional guard against every encroachment. This is the essence of their argument, and it is false and fallacious beyond conception.

With regard to the *jurisdiction* of the two governments, I shall certainly admit that the Constitution ought to be so formed as not to prevent the states from providing for their own existence; and I maintain that it is so formed, and that their power of providing for themselves is sufficiently established. This is conceded by one gentleman, and in the next breath the concession is retracted. He says, Congress have but one exclusive right in taxation — that of duties on imports; certainly, then, their other powers are only concurrent. But, to take off the force of this obvious conclusion, he immediately says that the laws of the United States are supreme; and that where there is one supreme, there cannot be concurrent authority; and further, that where the laws of the Union are supreme, those of the states must be subordinate, because there cannot be two supremes. This is curious sophistry. That two supreme powers cannot act together, is false. They are inconsistent only when they

are aimed at each other, or at one indivisible object. The laws of the United States are supreme, as to all their proper, constitutional objects: the laws of the states are supreme in the same way. These supreme laws may act on different objects without clashing, or they may operate on different parts of the same object, with perfect harmony. Suppose both governments should lay a tax of a penny on a certain article: had not each an independent and uncontrollable power to collect its own tax? The meaning of the maxim, there cannot be two supremes, is simply this — two powers cannot be supreme over each other. This meaning is entirely perverted by the gentleman. But it is said, disputes between collectors are to be referred to the federal courts. This is again wandering in the field of conjecture. But suppose the fact certain; is it not to be presumed that they will express the true meaning of the Constitution and the laws? Will they not be bound to consider the concurrent jurisdiction; to declare that both the taxes shall have equal operation; that both the powers, in that respect, are sovereign and coëxtensive? If they transgress their duty, we are to hope that they will be punished. Sir, we can reason from probabilities alone. When we leave common sense, and give ourselves up to conjecture, there can be no certainty, no security in our reasonings.

I imagine I have stated to the committee abundant reasons to prove the entire *safety of the state governments* and of the people. I would go into a more minute consideration of the nature of the concurrent jurisdiction, and the operation of the laws, in relation to revenue; but at present I feel too much indisposed to proceed. I shall, with the leave of the committee, improve another opportunity of expressing to them more fully my ideas on this point. I wish the committee to remember that the Constitution under examination is framed upon truly republican principles; and that, as it is expressly designed to provide for the common protection and the general welfare of the United States, it must be utterly repugnant to this Constitution to subvert the state governments, or oppress the people.

SATURDAY, June 28, 1788. — The Hon. Mr. HAMILTON. Mr. Chairman, in the course of these debates, it has been suggested that the state of New York has sustained peculiar misfortune from the mode of raising revenues by

requisitions. I believe we shall now be able to prove that this state, in the course of the late revolution, suffered the extremes of distress on account of this delusive system. To establish these facts, I shall beg leave to introduce a series of official papers, and resolutions of this state, as evidence of the sentiments of the people during the most melancholy periods of the war. I shall request the secretary to read these papers, in the order in which I point them out.

His excellency, Gov. CLINTON. I presume the introduction of this kind of evidence is occasioned by a conversation I had with one of the gentlemen yesterday. It would have been fair to mention to me, at that time, the intention of bringing these matters forward. Some new lights might then have been thrown on the subject, relative to the particular circumstances which produced the resolutions alluded to. An opportunity would also have been given of showing what the sense of Congress and of this state was, after those circumstances were changed. I believe these resolutions were previous to the accession of all the states to the Confederation. I could wish that these matters might be set in clear point of light.

The Hon. Mr. DUANE. I hope the honorable member will not suppose that I have dealt unfairly. It is true I had some conversation with him yesterday, which led me to a conclusion that it would be fair and proper that these papers should be produced. But independently of that conversation, sir, I should have thought it my duty to bring them forward, because I believe that the melancholy experience of our country ought to have more influence on our conduct, than all the speculations and elaborate reasonings of the ablest men. I trust that this evidence will come home; that it will be felt. I am convinced that our greatest misfortunes originated in the want of such a government as is now offered to us. I assure the gentleman that the conversation I had with him yesterday was not the cause of bringing these papers into view. I declare that, if I know my own heart, I have no intention of acting uncandidly.

Gov. CLINTON. I do not mean to create any dispute respecting the subject of these resolutions. I did inform the gentleman that there were several papers which would throw light on this question. All I say is, it would have been fair to produce all of them together, that the committee might

not be deceived by a partial statement. I observed that all these resolutions were at a period antecedent to the completion of the Union, when Congress had no power at all. The gentlemen are mistaken if they suppose I wish to prevent the reading of them.

Mr. DUANE. I believe we shall find that there are resolutions subsequent, as well as antecedent, to the completion of the Confederation. This we shall endeavor to show. I am clear, sir, that these exhibits will furnish more effectual arguments than all that can be said. But I shall not enlarge. The papers will speak for themselves.

Mr. M. SMITH. I shall not oppose the reading of any papers the gentlemen may think proper to produce. But we shall reserve to ourselves the privilege of giving what we think to be the true explanation of them.

Mr. HAMILTON. We shall make the same reservation. By the indisputable construction of these resolutions, we shall prove that this state was once on the verge of destruction, for want of an energetic government. To this point we shall confine ourselves.

Mr. TREDWELL. It appears to me useless to read these papers. If I understand the matter, they are produced to prove a point which is not contested. It is on all hands acknowledged that the federal government is not adequate to the purpose of the Union.

The papers were then read by the secretary, in the following order:—

1st. An extract from Governor Clinton's speech to the legislature, September 7, 1780.

2d. Extract from the answer of the Senate, September 9, 1780.

3d. Resolve of the Assembly, October 10, 1780.

4th. Resolve of both houses, October 10, 1780, respecting the Hartford Convention.

5th. A letter from the legislature of New York to Congress, dated Albany, February 5, 1781, describing the distresses of the state.

6th. A message from the governor to the legislature, March 9, 1781, announcing the establishment of the Confederation.

7th. Resolve of the legislature, dated March 29, 1781, relative to the Hartford Convention.

8th. Resolve of the legislature, November 21, 1781, recommending a five per cent. impost.

9th. A resolution of 20th July, 1782, lamenting the want of powers in Congress, and pointing out the defect of the Confederation.

After these papers were read,

Gov. CLINTON rose, and observed, that there could be no doubt that the representations made in them were true, and that they clearly expressed the sentiments of the people at those periods. Our severe distresses, he said, naturally led us into an opinion that the Confederation was too weak. It appears to me, the design of producing these papers is something more than to show the sentiments of the state during the war; that it is to prove that there now exists an opposition to an energetic government. I declare, solemnly, that I am a friend to a strong and efficient government. But, sir, we may err in this extreme: we may erect a system that will destroy the liberties of the people. Sir, at the time some of these resolves were passed, there was a dangerous attempt to subvert our liberties, by creating a supreme dictator. There are many gentlemen present who know how strongly I opposed it. My opposition was at the very time we were surrounded with difficulties and danger. The people, when wearied with their distresses, will, in the moment of frenzy, be guilty of the most imprudent and desperate measures. Because a strong government was wanted during the late war, does it follow that we should now be obliged to accept of a dangerous one? I ever lamented the feebleness of the Confederation, for this reason, among others, that the experience of its weakness would one day drive the people into an adoption of a constitution dangerous to our liberties. I know the people are too apt to vibrate from one extreme to another. The effects of this disposition are what I wish to guard against. If the gentleman can show me that the proposed Constitution is a safe one, I will drop all opposition. The public resolves, which have been read to you, are only expressive of the desire that once prevailed to remove present difficulties. A general impost was clearly intended, but it was intended as a temporary measure. I appeal to every gentleman present, if I have not been uniformly in favor of granting an impost to Congress. I confess, the manner in which that body proposed to exercise the power, I could not agree to. I firmly believed, that, if it were granted in the form recommended, it would prove unproductive, and would also lead to the establishment of dangerous principles. I believed that granting the revenue, without giving the power of collection, or a control over our state officers, would be the most wise and

prudent measure. These are and ever have been my sentiments. I declare that, with respect to the papers which have been read, or any which I have in my possession, I shall be ready to give the committee all the information in my power.

Mr. DUANE. As I am sensible the gentleman last on the floor was in the confidence of the commander-in-chief, I would wish to ask if he did not, at different times, receive communications from his excellency, expressive of this idea—that, if this state did not furnish supplies to the army, it must be disbanded.

Gov. CLINTON. It is true, sir, I have received such communications more than once. I have been sent for to attend councils of war, where the state of the army was laid before me; and it was melancholy indeed. I believe that, at one period, the exertions of this state, in impressing flour from the people, saved the army from dissolution.

Mr. HAMILTON. The honorable gentleman from Ulster has given a turn to the introduction of those papers which was never in our contemplation. He seems to insinuate that they were brought forward with a view of showing an inconsistency in the conduct of some gentleman; perhaps of himself. Sir, the exhibition of them had a very different object. It was to prove that this state once experienced hardships and distresses to an astonishing degree, for want of the assistance of the other states. It was to show the evils we suffered since, as well as before, the establishment of the Confederation, from being compelled to support the burden of the war; that requisitions have been unable to call forth the resources of the country; that requisitions have been the cause of a principal part of our calamities; that the system is defective and rotten, and ought forever to be banished from our government. It was necessary—with deference to the honorable gentleman—to bring forward these important proofs of our argument, without consulting the feelings of any man.

That the human passions should flow from one extreme to another, I allow, is natural. Hence the mad project of creating a *dictator*. But it is equally true that this project was never ripened into a deliberate and extensive design. When I heard of it, it met my instant disapprobation. The honorable gentleman's opposition, too, is known and applaud-

ed. But why bring these things into remembrance? Why affect to compare this temporary effusion with the serious sentiments our fellow-citizens entertained of the national weaknesses? The gentleman has made a declaration of his wishes for a strong federal government. I hope this is the wish of all. But why has he not given us his ideas of the nature of this government, which is the object of his wishes? Why does he not describe it? We have proposed a system which we supposed would answer the purposes of strength and safety. The gentleman objects to it, without pointing out the grounds on which his objections are founded, or showing us a better form. These general surmises never lead to the discovery of truth. It is to be desired that the gentleman would explain particularly the errors in this system, and furnish us with their proper remedies. The committee remember that a grant of an impost to the United States, for twenty-five years, was requested by Congress. Though it was a very small addition of power to the federal government, it was opposed in this state, without any reasons being offered. The dissent of New York and Rhode Island frustrated a most important measure. The gentleman says he was for granting the impost; yet he acknowledges he could not agree to the mode recommended. But it is well known that Congress had declared that they could not receive the accession of the states upon any other plan than that proposed. In such cases, propositions for altering the plan amounted to a positive rejection. At this time, sir, we were told it was dangerous to grant powers to Congress; did this general argument indicate a disposition to grant the impost in any shape? I should myself have been averse to the granting of very extensive powers; but the impost was justly considered as the only means of supporting the Union. We did not then contemplate a fundamental change in government. From my sense of the gentlemen's integrity, I am bound to believe that they are attached to a strong, united government; and yet I find it difficult to draw this conclusion from their conduct or their reasonings.

Sir, with respect to the subject of revenue, which was debated yesterday, it was asserted that, in all matters of taxation, except in the article of imposts, the united and individual states had a concurrent jurisdiction; that the state governments had an independent authority to draw revenues

from every source but one. The truth of these positions will appear on a slight investigation. I maintain that the word *supreme* imports no more than this — that the Constitution, and laws made in pursuance thereof, cannot be controlled or defeated by any other law. The acts of the United States, therefore, will be absolutely obligatory as to all the proper objects and powers of the general government. The states, as well as individuals, are bound by these laws; but the laws of Congress are restricted to a certain sphere, and when they depart from this sphere, they are no longer supreme or binding. In the same manner the states have certain independent powers, in which their laws are supreme; for example, in making and executing laws concerning the punishment of certain crimes, such as murder, theft, &c., the states cannot be controlled. With respect to certain other objects, the powers of the two governments are concurrent, and yet supreme. I instanced yesterday a tax on a specific article. Both might lay the tax; both might collect it without clashing or interference. If the individual should be unable to pay both, the first seizure would hold the property. Here the laws are not in the way of each other; they are independent and supreme.

The case is like that of two creditors: each has a distinct demand; the debtor is held equally for the payment of both. Their suits are independent; and if the debtor cannot pay both, he who takes the first step secures his debt. The individual is precisely in the same situation, whether he pays such a sum to one, or to two. No more will be required of him to supply the public wants, than he has ability to afford. That the states have an undoubted right to lay taxes in all cases in which they are not prohibited, is a position founded on the obvious and important principle in confederated governments, that whatever is not expressly given to the federal head is reserved to the members. The truth of this principle must strike every intelligent mind. In the first formation of government, by the association of individuals, every power of the community is delegated, because the government is to extend to every possible object; nothing is reserved but the unalienable rights of mankind: but, when a number of these societies unite for certain purposes, the rule is different, and from the plainest reason — they have already delegated their sovereignty and their powers to their

several governments; and these cannot be recalled, and given to another, without an express act. I submit to the committee whether this reasoning is not conclusive. Unless, therefore, we find that the powers of taxation are exclusively granted, we must conclude that there remains a concurrent authority. Let us, then, inquire if the Constitution gives such exclusive powers to the general government. Sir, there is not a syllable in it that favors this idea; not a word importing an exclusive grant, except in the article of imposts. I am supported in my general position by this very exception. If the states are prohibited from laying duties on imports, the implication is clear. Now, what proportion will the duties on imports bear to the other ordinary resources of the country? We may now say one third; but this will not be the case long. As our manufactures increase, foreign importations must lessen. Here are two thirds, at least, of the resources of our country open to the state governments. Can it be imagined, then, that the states will lose their existence or importance for want of *revenues*? The propriety of Congress possessing an exclusive power over the impost appears from the necessity of their having a considerable portion of our resources, to pledge as a fund for the reduction of the debts of the United States. When you have given a power of taxation to the general government, none of the states individually will be holden for the discharge of the federal obligations: the burden will be on the Union.

The gentleman says that the operation of the taxes will exclude the states on this ground—that the demands of the community are always equal to its resources; that Congress will find a use for all the money the people can pay. This observation, if designed as a general rule, is, in every view, unjust. Does he suppose the general government will want all the money the people can furnish, and also that the state governments will want all the money the people can furnish? What contradiction is this! But if this maxim be true, how does the wealth of the country ever increase? How are the people enabled to accumulate fortunes? Do the burdens regularly augment as its inhabitants grow prosperous and happy? But if, indeed, all the resources are required for the protection of the people, it follows that the protecting power should have access to them. The only difficulty lies in the want of resources. If

they are adequate, the operation will be easy; if they are not, taxation must be restrained. Will this be the fate of the state taxes alone? Certainly not. The people will say, No. What will be the conduct of the national rulers? The consideration will not be, that our imposing the tax will destroy the states, for this cannot be effected; but that it will distress the people, whom we represent, and whose protectors we are. It is unjust to suppose they will be altogether destitute of virtue and prudence: it is unfair to presume that the representatives of the people will be disposed to tyrannize in one government more than in another. If we are convinced that the national legislature will pursue a system of measures unfavorable to the interests of the people, we ought to have no general government at all. But if we unite, it will be for the accomplishment of great purposes: these demand great resources and great powers. There are certain extensive and uniform *objects of revenue* which the United States will improve, and to which, if possible, they will confine themselves. Those objects which are more limited, and in respect to which the circumstances of the states differ, will be reserved for their use: a great variety of articles will be in this last class of objects, to which only the state laws will properly apply. To ascertain this division of objects is the proper business of legislation: it would be absurd to fix it in the Constitution, both because it would be too extensive and intricate, and because alteration of circumstances must render a change of the division indispensable. Constitutions should consist only of general provisions: the reason is, that they must necessarily be permanent, and that they cannot calculate for the possible change of things. I know that the states must have their resources; but I contend that it would be improper to point them out particularly in the Constitution.

Sir, it has been said that a *poll tax* is a tyrannical tax; but the legislature of this state can lay it, whenever they please. Does, then, our Constitution authorize tyranny? I am as much opposed to capitation as any man. Yet who can deny that there may exist certain circumstances which will render this tax necessary? In the course of a war, it may be necessary to lay hold of every resource; and for a certain period, the people may submit to it. But on removal of the danger, or the return of peace, the general sense of

the community would abolish it. The United Netherlands were obliged, on an emergency, to give up one twentieth of their property to the government. It has been said that it will be impossible to exercise this power of taxation: if it cannot be exercised, why be alarmed? But the gentlemen say that the difficulty of executing it with moderation will necessarily drive the government into despotic measures. Here, again, they are in the old track of jealousy and conjecture. Whenever the people feel the hand of despotism, they will not regard forms and parchments. But the gentlemen's premises are as false as their conclusion. No one reason can be offered why the exercise of the power should be impracticable. No one difficulty can be pointed out which will not apply to our state governments. Congress will have every means of knowledge that any legislature can have. From general observation, and from the revenue systems of the several states, they will derive information as to the most eligible modes of taxation. If a land tax is the object, cannot Congress procure as perfect a valuation as any other assembly? Can they not have all the necessary officers for assessment and collections? Where is the difficulty? Where is the evil? They never can oppress a particular state by an unequal imposition; because the Constitution has provided a fixed ratio, a uniform rule, by which this must be regulated. The system will be founded upon the most easy and equal principles—to draw as much as possible from direct taxation; to lay the principal burdens on the wealthy, &c. Even ambitious and unprincipled men will form their system so as to draw forth the resources of the country in the most favorable and gentle methods, because such will be ever the most productive. They never can hope for success by adopting those arbitrary modes which have been used in some of the states.

A gentleman yesterday passed many encomiums on the character and operations of the *state governments*. The question has not been, whether their laws have produced happy or unhappy effects. The character of our confederation is the subject of our controversy. But the gentleman concludes too hastily. In many of the states, government has not had a salutary operation. Not only Rhode Island, but several others, have been guilty of indiscretions and misconduct—of acts which have produced misfortunes and

dishonor. I grant that the government of New York has operated well, and I ascribe it to the influence of those excellent principles in which the proposed Constitution and our own are so congenial. We are sensible that private credit is much lower in some states than it is in ours. What is the cause of this? Why is it, at the present period, so low, even in this state? Why is the value of our land depreciated? It is said that there is a scarcity of money in the community. I do not believe this scarcity to be so great as is represented. It may not appear; it may be retained by its holders; but nothing more than stability and confidence in the government is requisite to draw it into circulation. It is acknowledged that the general government has not answered its purposes. Why? We attribute it to the defects of the revenue system. But the gentlemen say, the requisitions have not been obeyed, because the states were impoverished. This is a kind of reasoning that astonishes me. The records of this state — the records of Congress — prove that, during the war, New York had the best reason to complain of the non-compliance of the other states. I appeal to the gentleman. Have the states who have suffered least contributed most? No, sir; the fact is directly the reverse. This consideration is sufficient entirely to refute the gentleman's reasoning. Requisitions will ever be attended with the same effects. This depends on principles of human nature that are as infallible as any mathematical calculations. States will contribute or not, according to their circumstances and interests. They will all be inclined to throw off their burdens of government upon their neighbors. These positions have been so fully illustrated and proved in former stages of this debate, that nothing need be added. Unanswerable experience — stubborn facts — have supported and fixed them.

Sir, to what situation is our Congress now reduced! It is notorious that with the utmost difficulty they maintain their ordinary officers, and support the mere form of a federal government. How do we stand with respect to foreign nations? It is a fact that should strike us with shame, that we are obliged to borrow money in order to pay the interest of our debts. It is a fact that these debts are every day accumulating by compound interest. This, sir, will one day endanger the peace of our country, and expose us to vicissi-

tudes the most alarming. Such is the character of requisitions — such the melancholy, dangerous condition to which they have reduced us! Now, sir, after this full and fair experiment, with what countenance do gentlemen come forward to recommend the ruinous principle, and make it the basis of a new government? Why do they affect to cherish this political demon, and present it once more to our embraces? The gentleman observed, that we cannot, even in a single state, collect the whole of a tax; some counties will necessarily be deficient. In the same manner, says he, some states will be delinquent. If this reasoning were just, I should expect to see the states pay, like the counties, in proportion to their ability, which is not the fact.

I shall proceed now more particularly to the proposition before the committee. This clearly admits that the *unlimited power of taxation*, which I have been contending for, is proper. It declares that, after the states have refused to comply with the requisitions, the general government may enforce its demands. While the gentlemen's proposition and principle admit this, in its fullest latitude, the whole course of the states is against it. The mode they point out would involve many inconveniences against which they would wish to guard. Suppose the gentleman's scheme should be adopted; would not all the resources of the country be equally in the power of Congress? The states can have but one opportunity of refusal. After having passed through the empty ceremony of a requisition, the general government can enforce all its demands, without limitation or resistance. The states will either comply, or they will not. If they comply, they are bound to collect the whole of the tax from the citizens. The people must pay it. What, then, will be the disadvantage of its being levied and collected by Congress, in the first instance? It has been proved, as far as probabilities can go, that the federal government will, in general, take the laws of the several states as its rule, and pursue those measures to which the people are most accustomed. But if the states do not comply, what is the consequence? If the power of a compulsion be a misfortune to the state, they must now suffer it without opposition or complaint. I shall show, too, that they must feel it in an aggravated degree. It may frequently happen that, though the states formally comply with the requisitions, the avails will not be fully realized by Congress: the

states may be dilatory in the collection and payment, and may form excuses for not paying the whole. There may also be partial compliances, which will subject the Union to inconveniences. Congress, therefore, in laying the tax, will calculate for these losses and inconveniences. They will make allowances for the delays and delinquencies of the states, and apportion their burdens accordingly. They will be induced to demand more than their actual wants.

In these circumstances, the requisitions will be made upon calculations in some measure arbitrary. Upon the constitutional plan, the only inquiry will be, How much is actually wanted? and how much can the object bear, or the people pay? On the gentleman's scheme, it will be, What will be the probable deficiencies of the states? for we must increase our demands in proportion, whatever the public wants may be, or whatever may be the abilities of the people. Now, suppose the requisition is totally rejected; it must be levied upon the citizens without reserve. This will be like inflicting a penalty upon the states. It will place them in the light of criminals. Will they suffer this? Will Congress presume so far? If the states solemnly declare they will not comply, does not this imply a determination not to permit the exercise of the coercive power? The gentlemen cannot escape the dilemma into which their own reasoning leads them. If the states comply, the people must be taxed; if they do not comply, the people must equally be taxed. The burden, in either case, will be the same — the difficulty of collecting the same. Sir, if these operations are merely harmless and indifferent, why play the ridiculous farce? If they are inconvenient, why subject us to their evils? It is infinitely more eligible to lay a tax originally, which will have uniform effects throughout the Union, which will operate equally and silently. The United States will then be able to ascertain their resources, and to act with vigor and decision. All hostility between the governments will be prevented. The people will contribute regularly and gradually for the support of government; and all odious, retrospective inquiries will be precluded.

But the ill effects of the gentleman's plan do not terminate here. Our own state will suffer peculiar disadvantages from the measure. One provision in the amendment is, that no direct taxes shall be laid till after the *impost and excise* shall

be found insufficient for the public exigencies; and that no excise shall be laid on articles of the growth or manufacture of the United States. Sir, the favorable maritime situation of this state, and our large and valuable tracts of unsettled land, will ever lead us to commerce and agriculture as our proper objects. Unconfined, and tempted by the prospect of easy subsistence and independence, our citizens, as the country populates, will retreat back, and cultivate the western parts of our state. Our population, though extensive, will never be crowded; and consequently we shall remain an importing and agricultural state. Now, what will be the operation of the proposed plan? The general government, restrained by the Constitution from a free application to other resources, will push imposts to an extreme. Will excessive impositions on our commerce be favorable to the policy of this state? Will they not directly oppose our interests? Similar will be the operation of the other clause of the amendment, relative to excise. Our neighbors, not possessed of our advantages for commerce and agriculture, will become manufacturers: their property will, in a great measure, be vested in the commodities of their own productions; but a small proportion will be in trade or in lands. Thus, on the gentleman's scheme, they will be almost free from burdens, while we shall be loaded with them. Does not the partiality of this strike every one? Can gentlemen, who are laboring for the interest of their state, seriously bring forward such propositions? It is the interest of New York that those articles should be taxed, in the production of which the other states exceed us. If we are not a manufacturing people, excises on manufactures will ever be for our advantage. This position is indisputable. Sir, I agree that it is not good policy to lay excises to any considerable amount, while our manufactures are in their infancy; but are they always to be so? In some of the states, they already begin to make considerable progress. In Connecticut, such encouragement is given as will soon distinguish that state. Even at the present period, there is one article from which a revenue may very properly be drawn: I speak of ardent spirits. New England manufactures more than a hundred gallons to our one; consequently, an excise on spirits at the still-head would make those states contribute in a vastly greater proportion than ourselves. In every view, excises

on domestic manufactures would benefit New York. But the gentlemen would defeat the advantages of our situation, by drawing upon us all the burdens of government. The nature of our union requires that we should give up our state impost. The amendment would forfeit every other advantage. This part of the Constitution should not be touched. The excises were designed as a recompense to the importing states for relinquishing their imposts. Why, then, should we reject the benefits conferred upon us? Why should we run blindly against our own interest?

Sir, I shall no further enlarge on this argument: my exertions have already exhausted me. I have persevered from an anxious desire to give the committee the most complete conception of this subject. I fear, however, that I have not been so successful as to bestow upon it that full and clear light of which it is susceptible. I shall conclude with a few remarks by way of apology. I am apprehensive, sir, that, in the warmth of my feelings, I may have uttered expressions which were too vehement. If such has been my language, it was from the habit of using strong phrases to express my ideas; and, above all, from the interesting nature of the subject. I have ever condemned those cold, unfeeling hearts, which no object can animate. I condemn those indifferent mortals, who either never form opinions, or never make them known. I confess, sir, that on no subject has my breast been filled with stronger emotions, or more anxious concern. If any thing has escaped me, which may be construed into a personal reflection, I beg the gentlemen, once for all, to be assured that I have no design to wound the feelings of any one who is opposed to me.

While I am making these observations, I cannot but take notice of some expressions which have fallen in the course of the debate. It has been said that ingenious men may say ingenious things, and that those who are interested in raising the few upon the ruins of the many, may give to every cause an appearance of justice. I know not whether these insinuations allude to the characters of any who are present, or to any of the reasonings in this house. I presume that the gentlemen would not ungenerously impute such motives to those who differ from themselves. I declare I know not any set of men who are to derive peculiar advantages from this Constitution. Were any permanent

honors or emoluments to be secured to the families of those who have been active in this cause, there might be some grounds for suspicion. But what reasonable man, for the precarious enjoyment of rank and power, would establish a system which would reduce his nearest friends and his posterity to slavery and ruin? If the gentlemen reckon me amongst the obnoxious few, if they imagine that I contemplate with ambitious eye the immediate honors of the government, yet let them consider that I have my friends, my family, my children, to whom ties of nature and of habit have attached me. If, to-day, I am among the favored few, my children, to-morrow, may be among the oppressed; these dear pledges of my patriotism may, at a future day, be suffering the severe distresses to which my ambition has reduced them. The changes in the human condition are uncertain and frequent: many, on whom Fortune has bestowed her favors, may trace their family to a more unprosperous station; and many, who are now in obscurity, may look back upon the affluence and exalted rank of their ancestors. But I will no longer trespass on your indulgence. I have troubled the committee with these observations, to show that it cannot be the wish of any reasonable man to establish a government unfriendly to the liberties of the people. Gentlemen ought not, then, to presume that the advocates of this Constitution are influenced by ambitious views. The suspicion, sir, is unjust; the charge is uncharitable.

The Hon. Mr. LANSING. This clause, Mr. Chairman, is, by every one, considered as one of the most important in the Constitution. The subject has been treated in a very diffusive manner. Among all the ingenious remarks that have been made, some are little more than repetitions; others are not very applicable or interesting. I shall beg leave to pass a few strictures on the paragraph; and, in my reply, shall confine myself to the arguments which have been advanced. The committee have been informed that it embraces a great variety of objects, and that it gives the general government a power to lay all kinds of *taxes*; that it confers a right of laying excises on all articles of American manufacture, of exacting an impost, in which the state governments cannot interfere, and of laying direct taxes without restriction. These powers reach every possible source of revenue. They will involve a variety of litigations,

which can come only under the cognizance of the judiciary of the United States. Hence it must appear that these powers will affect, in an unlimited manner, the property of the citizens ; that they will subject them, in a great degree, to the laws of the Union, and give an extensive jurisdiction to the federal courts. The objects of the amendment are, to prevent excises from being laid on the manufactures of the United States, and to provide that direct taxes shall not be imposed till requisitions have been made and proved fruitless.

All the reasoning of the gentlemen goes to prove that government ought to possess all the resources of a country. But so far as it respects government in general, it does not apply to this question. Giving the principle its full force, it does not prove that our federal government ought to have all the resources ; because this government is but a part of a system, the whole of which should possess the means of support. It has been advanced repeatedly by the gentleman, that the powers of the United States should, like their objects, be national and general. It appears to him proper, therefore, that the nature of their resources should be correspondent. Sir, it has been declared that we can no longer place confidence in requisitions. A great deal of argument has been spent on this point. The gentlemen constantly consider the old mode of requisitions, and that proposed, in the same view. But not one of us has ever contended for requisitions in the form prescribed in the existing Confederation : hence the reasoning about the inefficacy of the ancient mode has no application to the one recommended ; which rests on different principles, and has a sanction of which the other is totally destitute. In the one instance, it is necessary to execute the requisitions of Congress on the states collectively. There is no way of doing this but by coercing a whole community, which cannot be effected. But the amendment proposes to carry the laws of Congress to the doors of individuals. This circumstance will produce an entire change in the operation of requisitions, and will give them an efficiency which otherwise they could not have. In this view, it will appear that the gentleman's principles respecting the character and effects of requisitions can have no application in this dispute. Much pains has been taken to show that requisitions have not answered the

public exigencies. All this has been fully admitted in former stages of the debate. It was said by a gentleman yesterday, that though considerable sums of money had been paid by the people, it was by way of bounties to the soldiers which was a coercion on individuals. If, then, this coercion had its effect, certainly its operation, upon the proposed plan, will be much more forcible. It has been said that, in sudden emergencies, all the resources of the country might be required; and that the supreme head ought to possess the power of providing for the public wants, in every degree. It is an undoubted fact, that, in all government, it is extremely difficult, on the spur of the occasion, to raise money by taxes. For is it necessary. In a commercial country, persons will always be found to advance money to the government, and to wait the regular operation of the revenue laws. It depends on the security of the taxes, and the certainty of being refunded. This amendment does not diminish the security or render the fund precarious. The certainty of repayment is as well established as if the government could levy the taxes originally on individuals.

Sir, have the states ever shown a disposition not to comply with the requisitions? We shall find that, in almost every instance, they have, so far forth as the passing a law of compliance, been carried into execution. To what, then, are the delinquencies to be attributed? They must be to the impoverished state of the country. If the state governments have been unable to compel the people to obey their laws, will Congress be able to coerce them? Will the federal taxes be better paid? But, sir, no reasonable man will be apprehensive of the non-compliance of the states, under the operation of the proposed plan. The right of enforcing the requisitions will furnish the strongest motive for the performance of the federal duty. With this powerful inducement, there is hardly a possibility of failure. It has been asked, Why give the individual states the preference? Why not suffer the general government to apply to the people in the first instance, without the formality of a requisition? This question has been repeatedly asked, and as often answered. It is because the state legislatures are more nearly connected with the people, and more acquainted with their situation and wants. They better know when to enforce or relax their laws; to embrace objects or relinquish them,

according to change of circumstances : they have but a few varying interests to comprehend in general provisions. Congress do not possess these advantages ; they cannot have so complete an acquaintance with the people ; their laws, being necessarily uniform, cannot be calculated for the great diversity of objects which present themselves to government. It is possible that the men delegated may have interests different from those of the people. It is observed that we have had experience of different kinds of taxes, which have been executed by different officers, — for instance, county and state taxes, — and that there has been no clashing or interference. But, sir, in these cases, if any dispute arises, the parties appeal to a common tribunal ; but if collectors are appointed by different governments, and authorized by different laws, the federal officer will appeal to a federal court ; his adversary will appeal to the state court. Will not this create contests respecting jurisdiction ? But the Constitution declares that the laws of the United States shall be supreme. There is no doubt, therefore, that they must prevail in every controversy ; and every thing which has a tendency to obstruct the force of the general government must give way.

An honorable gentleman from New York has remarked that the idea of *danger to state governments* can only originate in a distempered fancy : he stated that they were necessary component parts of the system, and informed us how the President and senators were to be elected ; his conclusion is, that the liberties of the people cannot be endangered. I shall only observe, that, however fanciful these apprehensions may appear to him, they have made serious impressions upon some of the greatest and best men. Our fears arise from the experience of all ages and our knowledge of the dispositions of mankind. I believe the gentleman cannot point out an instance of the rights of a people remaining for a long period inviolate. The history of Europe has afforded remarkable examples of the loss of liberty by the usurpations of rulers. In the early periods of the government of the United Netherlands, the magistrates were elected by the people ; but now they have become hereditary. The Venetians are, at this day, governed by an aristocracy. The senators, once the representatives of the people, were enabled, by gradual encroachments, at last to declare themselves perpetual. The office has since become hereditary,

and the government entirely despotic. The gentleman has adduced one historical example, to prove that the members of a government, in the contests with the head, generally prevail. He observed that, in the struggles between the feudal sovereigns of Europe and their barons, the latter were usually victorious. If this were true, I believe the operations of such a system as the feudal will not warrant the general inference he draws. The feudal barons were obliged to assist the monarch, in his wars, with their persons and those of their vassals. This, in the early periods, was the sovereign's sole dependence. Not possessed of pecuniary revenues, or a standing military force, he was, whenever the barons withdrew their aid, or revolted against his authority, reduced to a very feeble situation. While he possessed not the means of carrying on his wars, independently of his nobles, his power was insignificant, and he was unsuccessful. But, sir, the moment he gained the command of revenues and an army, as soon as he obtained *the sword and the purse*, the current of success was turned; and his superiority over his barons was regularly augmented, and at last established. The barons, in their early wars, possessed other peculiar advantages: their number was small, they were actuated by one principle, and had one common object; it was to reduce still lower the feeble powers of the monarch: they were therefore easily brought to act in concert. Sir, wherever the revenues and the military force are, there will rest the power: the members or the head will prevail, as one or the other possesses these advantages. The gentleman, in his reasoning, has taken the wrong part of the example — that part which bears no resemblance to our system. Had he come down to a later period, he would indeed have seen the resemblance, and his historical facts would have directly militated against his argument. Sir, if you do not give the state governments a power to protect themselves, if you leave them no other check upon Congress than the power of appointing senators, they will certainly be overcome, like the barons of whom the gentleman has spoken. Neither our civil nor militia officers will afford many advantages of opposition against the national government: if they have any powers, it will ever be difficult to concentrate them, or give them a uniform direction. Their influence will hardly be felt, while the greater number of lucrative and honorable

places, in the gift of the United States, will establish an influence which will prevail in every part of the continent.

It has been admitted by an honorable gentleman from New York, (Mr. Hamilton,) that the state governments are necessary to secure the liberties of the people. He has urged several forcible reasons why they ought to be preserved under the new system; and he has treated the idea of the general and state governments being hostile to each other as chimerical. I am, however, firmly persuaded that an hostility between them will exist. This was a received opinion in the late Convention at Philadelphia. That honorable gentleman was then fully convinced that it would exist, and argued, with much decision and great plausibility, that the state governments ought to be subverted, at least so far as to leave them only corporate rights, and that, even in that situation, they would endanger the existence of the general government. But the honorable gentleman's reflections have probably induced him to correct that sentiment.

[Mr. Hamilton here interrupted Mr. Lansing, and contradicted, in the most positive terms, the charge of inconsistency included in the preceding observations. This produced a warm personal altercation between those gentlemen, which engrossed the remainder of the day.]

MONDAY, *June 30, 1788.* — The personal dispute between Mr. Hamilton and Mr. Lansing was again brought forward, and occupied the attention of the committee for a considerable part of this day; on the termination of which, the debate upon Mr. Williams's motion was resumed, and continued by Mr. Williams, Mr. Smith, Mr. Jay, Mr. Jones, &c.

In the course of this debate, Mr. SMITH made the following remarks, in answer to Mr. Hamilton; that, though the gentleman's maxim was true, that the means should be adequate to the end, yet it did not, by any means, apply to a complex system like ours, in which all the objects of government were not to be answered by the national head, and which, therefore, ought not to possess all the means. In another view, he said, the rule would not apply. It was not true that the power which was charged with the common defence should have all the revenues. In the government of Great Britain, the power to whom the common defence was committed did not possess the means of providing for it. The king had the whole power of war; but the Parlia-

ment only could furnish the money for conducting it. Still the government, taken all together, possessed all the powers and all the means. He thought it ought to be on such a footing here. The general government was one part of the system, the state governments another. Now, it was true, he said, that the system, taking all its parts together, ought to have unlimited powers. It was not the design of the amendment to prevent this: it was only to divide the powers between the parts, in proportion to their several objects.

TUESDAY, July 1, 1788. — Mr. SMITH observed, that he supposed the states would have a *right to lay taxes*, if there was no power in the general government to control them. He acknowledged that the counties in this state had a right to collect taxes; but it was only a legislative, not a constitutional right. It was dependent and controllable. This example, he said, was a true one; and the comparison the gentleman had made was just; but it certainly operated against him. Whether, then, the general government would have a right to control the states in taxation, was a question which depended upon the construction of the Constitution. Men eminent in law had given different opinions on this point. The difference of opinion furnished, to his mind, a reason why the matter should be constitutionally explained. No such important point should be left to doubt and construction. The clause should be so formed as to render the business of legislation as simple and plain as possible. It was not to be expected that the members of the federal legislature would generally be versed in those subtleties which distinguish the profession of the law. They would not be disposed to make nice distinctions with respect to jurisdiction. He said that, from general reasoning, it must be inferred that, if the objects of the general government were without limitation, there could be no bounds set to their powers; that they had a right to seek those objects by all necessary laws, and by controlling every subordinate power. The means should be adequate to the end: the less should give way to the greater. General principles, therefore, clearly led to the conclusion, that the general government must have the most complete control over every power which could create the least obstacle to its operations.

Mr. Smith then went into an examination of the particular provisions of the Constitution, and compared them to-

gether, to prove that his remarks were not conclusions from general principles alone, but warranted by the language of the Constitution. He conceived, therefore, that the national government would have powers, on this plan, not only to lay all species of taxes, but to control and set aside every thing which should impede the collection of them. They would have power to abrogate the laws of the states, and to prevent the operation of their taxes; and all courts, before whom any disputes on these points should come, whether federal or not, would be bound by oath to give judgment according to the laws of the Union. An honorable gentleman from New York, he said, had dwelt with great attention on the idea that the state governments were necessary and useful to the general system, and that this would secure their existence. Granting that they would be very convenient in the system, yet, if the gentleman's position were true, that the two governments would be rivals, we had no need to go any further than the common feelings and passions of human nature, to prove that they must be hostile, and that one or the other must be finally subverted. If they were mutually necessary to each other, how could they be rivals? For, in this case, lessening the power of the states would be only diminishing the advantages of the general government. Another source, from which the gentleman would derive security to the states, was the superior number of the state representatives. Mr. Smith apprehended, however, that this very circumstance would be an argument for abolishing them. The people would be very apt to compare their small importance and powers with the great expense of their support. He then went into an examination of another source of security which the gentleman had pointed out,—that is, the great number of officers dependent on the states,—and compared them with those of the United States, and concluded with observing, that he (Mr. Smith) was one who had opposed the impost: he was also opposed to the Constitution in its present form. He said, he had opposed the impost, because it gave too much power to a single body, organized as the old Congress was; and he objected to this Constitution, because it gave too much power to the general government, however it might be organized. In both, he said, he stood on the same ground, and his conduct had been uniform and consistent.

The Hon. Mr. DUANE addressed the committee in a long and elaborate speech. He commenced with an explanation of the motives which induced him to bring forward the *public papers*, which have been lately read; declared that he had, in that matter, been actuated by no personal designs, no possible disposition to censure the conduct or wound the feelings of any man; that his sole object was, to furnish the committee with the most convincing evidence as to the merits of the Constitution. He then went into a particular examination of the exhibits, painted the situation of the country at the period in which they were written, and illustrated and enforced their testimony. In the course of this investigation, he introduced and commented upon General Washington's circular letter, and concluded, that all this evidence afforded complete proof that requisitions had ever had an unhappy and fatal operation, that they would never answer the purposes of government, and that the principle ought to be forever discarded from our system. He then proceeded to enforce, by a variety of considerations, the argument respecting the propriety of the general government's being unrestricted in the exercise of those powers which were requisite for the common defence; spoke of the necessity, that might in future exist, of maintaining large armies and navies; said that he, even in his old age, hoped yet to see the United States able, as well by sea as by land, to resent any injuries that might be offered them. It might very soon appear how necessary a powerful military might be. Occasions the most pressing were not even now wanting. The British, to this day, in defiance of the treaty of peace, held possession of our northern posts. This was the highest insult to our sovereignty. He hoped that these daring invasions would rouse the indignation of the United States. He had heard it surmised that the general government would probably never oblige the British to quit these posts; but whenever, said he, I find the Union guilty of such pusillanimity, I shall regret that I ever drew my breath in this country.

Mr. Duane then animadverted upon the reasoning of his opponents respecting the causes of the delinquencies of the states, and compared the exertions of the states with their different situations and circumstances, in order to prove that the deficiencies could not have arisen from poverty or distress. He declared that all which had been advanced by opposition

on this head was totally unsupported by facts. The gentleman next proceeded to discuss the question of concurrent jurisdiction, and the particular advantages New York would derive from excises on our manufactures; spoke of the difficulties and embarrassments which would result from the proposed amendment, and concluded with a comparison of the new to the old system, and some general encomiums on the excellences of the former.

The Hon. Mr. JAY rose, and said he would confine himself to a few remarks, as the question had been pretty fully debated. He began with a description of the general characteristics of a government proper for the United States. It had, he said, been justly laid down, that a government which was to accomplish national purposes should command the national resources. Here a question had been raised. Would it be proper that the state governments should limit the powers of the general government, relative to its supplies? Would it be right or politic that the sovereign power of a nation should depend for support on the mere will of the several members of that nation? that the interest of a part should take place of that of the whole, or that the partial views of one of the members should interfere with and defeat the views of all? He said that, after the most mature reflection, he could see no possible impropriety in the general government having access to all the resources of the country. With respect to *direct taxes*, it appeared to him that the proposed amendment would involve great difficulties. Suppose a state should refuse to comply; would not the same motives, the same reasons, which produced the non-compliance, induce such state to resist the imposing and collecting of the tax? Would not a number of states, in similar circumstances, be apt to unite to give their resistance weight? They could not all be forced. These ideas of the impracticability and the danger of the measure, he said, had been already fully illustrated, and they had made a deep impression on his mind. He apprehended that ambitious men might be found, in such emergencies, ready to take advantage of turbulent times, and put themselves at the head of such an association. After dwelling some time on this point, he proceeded to take notice of the objection relative to the want of that particular information in members of Congress, which, it had been said, would alone render them capable of imposing

taxes with prudence and justice. The objection had some weight; but it ought to be considered that direct taxes were of two kinds, general and specific. With respect to the latter, the objection could not apply. The national government would, without doubt, usually embrace those objects which were uniform throughout the states; such as all specific articles of luxury. No particular minute knowledge could be necessary for this. For example, what difficulty or partiality would there be in the operation of a tax of twenty shillings on all coaches? The objection, then, could only apply to the laying of general taxes upon all property. But the difficulty on this score, he said, might be easily remedied. The legislatures of the several states would furnish their delegates with the systems of revenue, and give them the most particular information with regard to the modes of taxation most agreeable to the people. From the comparison of these, Congress would be able to form a general system, as perfect as the nature of things would admit. He appealed to the good sense and candor of the gentlemen, if this would not, in all probability, take place. After some considerations on the subject of concurrent jurisdiction, he said, he was convinced that it was sufficiently secured and established in the Constitution. But as gentlemen were of a different opinion on this point, it would be very easy, he said, to insert in the adoption of the system an explanation of this clause. Mr. Jay concluded by suggesting a difficulty on the subject of excise, which has not been attended to. He asked by what rule we should know an article of American from one of foreign manufacture: how could American nails, American porter, and hundreds of other articles, be distinguished from those of foreign production? He thought the proposed measure would create embarrassments, and the various abuses that would follow might be easily conceived.

The Hon. Mr. SMITH, after some introductory, cursory remarks, took notice of an honorable gentleman's wishes respecting a *navy*. He thought it would be wild and ridiculous to attempt a project of that kind for a considerable length of time, even if the treasury were full of money. He thought it was our duty to calculate for the present period, and not attempt to provide for the contingencies of two or three centuries to come. In time, events might take place which no human wisdom could foresee, and which might

totally defeat and render useless these provisions. He insisted that the present state of the country alone ought to be considered. In three or four hundred years, its population might amount to a hundred millions: at this period, two or three great empires might be established, totally different from our own.

Mr. Smith then made some remarks upon the circular letter of the late commander-in-chief, which Mr. Duane had produced. He asked whence the American army came: how were they raised and maintained, if the complaints in this letter were well founded? how had the country been defended, and our cause supported, through so long a war, if requisitions had been so totally fruitless? He observed that one of the gentlemen had contemplated associations among the states for the purpose of resisting Congress. This was an imaginary evil. The opposers of the Constitution, he said, had been frequently charged with being governed by chimerical apprehensions, and of being too much in extremes. He asked if these suggestions were not perfectly in the same style. We had had no evidence of a disposition to combine for such purposes: we had no ground to fear they ever would. But if they were, at any time, inclined to form a league against the Union, in order to resist an oppressive tax, would they not do it, when the tax was imposed without a requisition? Would not the same danger exist, though requisitions were unknown? He thought no power ought to be given which could not be exercised. The gentleman had himself spoken of the difficulties attending general, direct taxes, and had presumed that the general government would take the state systems, and form from them the best general plan they could. But this would but partially remedy the evil. How much better would it be to give the systems of the different states their full force, by leaving to them the execution of the tax, and the power of levying it on the people!

The Hon. Chancellor LIVINGSTON. When this subject came under discussion on Friday, Mr. Chairman, I did myself the honor to express my sentiments to the committee. I considered the amendment as it would affect the general government, and was favored with the support of my honorable colleague, who went more largely and ably into the argument, and added weight to the ideas I had suggested.

I shall now confine myself to a few cursory and general observations on the reasonings of our opponents. I do not think it my duty to attempt to reconcile the gentlemen with each other. They advance opposite principles, and they argue differently. As they do not appear to have any fixed maxims in their politics, it is not to be wondered at that they talk at random, and run into inconsistencies. The gentleman from *Duchess* went into a defence of the state governments: he painted their good qualities in very warm colors; described their stability, their wisdom, their justice, their affection for the people. This was undoubtedly proper; for it was necessary to his argument. On the contrary, another gentleman took up the matter in a different point of view. He said the government of New York, which had been acknowledged one of the best, was quite imperfect. But this was all right, for it answered his purpose. A gentleman from New York had remarked a great resemblance between the government of this state and the new Constitution. To condemn the former, therefore, was giving a death-blow at the proposed system. But, sir, though we may pardon the gentlemen for differing from each other, yet it is difficult to excuse their differing from themselves. As these inconsistencies are too delicate to dwell on, I shall mention but, a few. Their amendment declares that Congress shall lay direct taxes, and the whole drift of their argument is against it. In their reasoning, direct taxes are odious and useless things; in their amendment, they are necessary and proper. Thus their arguments and their motion are at variance. But this is not the only contradiction. The gentlemen say that Congress will be avaricious, and will want every farthing of the people's property. One from Washington tells you that taxation will shut out the light of heaven, and will pick your pockets. With these melancholy ideas no wonder he mourns for the fair damsel of American liberty, harassed with oppressive laws, shut up in a dismal dungeon, robbed of the light of heaven, and, by a beautiful anti-climax, robbed of the money in her pocket. Yet, says the gentleman, though Congress will do all this, they cannot do it. You are told that the collection of the tax is impracticable. Is, then, this great mischief to arise from an impracticable thing? It is the reasoning among all reasoners, that from nothing nothing comes; and yet this

nothing is to destroy the state governments, and swallow up the state revenue: the tax which cannot realize a farthing is to rob the citizens of all their property. This is fine reasoning. To what shall I compare it? Shall I liken it to children in the market-place, or shall I liken it to children making bubbles with a pipe? Shall I not rather compare it to two boys upon a balanced board? One goes up, the other down; and so they go up and down, down and up, till the sport is over, and the board is left exactly on the balance in which they found it. But let us see if we cannot, from all this rubbish, pick out something which may look like reasoning. I confess I am embarrassed by their mode of arguing. They tell us that the *state governments* will be destroyed, because they will have no powers left them. This is new. Is the power over property nothing? Is the power over life and death no power? Let me ask what powers this Constitution would take from the states. Have the state governments the power of war and peace, of raising troops, and making treaties? The power of regulating commerce we possess; but the gentlemen admit that we improperly possess it. What, then, is taken away? Have not the states the right of *raising money*, and *regulating the militia*? And yet these objects could never have employed your legislatures four or five months in the year. What, then, have they been about?—making laws to regulate the height of fences and the repairing of roads? If this be true, take the power out of their hands. They have been unworthy servants; they have not deserved your confidence. Admit that the power of raising money should be taken from them; does it follow that the people will lose all confidence in their representatives? There are but two objects for which money must be raised—the support of the general government and those of the states; and they have an equal right to levy and collect their taxes. But if, as the amendment proposes, they should be obliged to grant all that Congress should call for,—if they are to be compelled to comply with the requisitions without limitation,—they would be, on the gentleman's principles, in a pitiable situation indeed! The mode alone would be in their discretion. Is this the mighty matter about which we differ? Contend about modes! I am sorry to say, sir, that a rigid adherence to modes, in this state, has been the cause of great injustice to individuals,

and has hurt the confidence of the people. It has led this state, on one occasion, to raise the expectations of public creditors, and to sink them again, by an unwarrantable breach of faith. Sir, if the power of regulating the militia, of raising money, of making and executing all the civil and criminal laws,—laws which affect the life, liberty, and property of individuals,—can insure or deserve the confidence and respect of the people, I think the gentleman's argument falls to the ground.

Much has been said, sir, about the sword and the purse. These words convey very confused ideas on the gentleman's application of them. The honorable member from New York has fully explained their meaning, as applied to the British government. His reasoning was so conclusive that it seems to have carried conviction to every mind. The gentleman from Duchess, to elude it, has made use of a singular shift. Says he, the general government and state governments form one government. Let us see how this matter stands. The states of Pennsylvania and New York form two distinct governments; but New York, Pennsylvania, and the general government, together form one government. The United States and New York make another government; the United States and Connecticut another, and so on. To the gentleman's optics these things may be clear; but to me they are utter darkness. We have thirteen distinct governments, and yet they are not thirteen governments, but one government. It requires the ingenuity of St. Athanasius to understand this political mystery. Were the gentleman a minister of the gospel, I might have *faith*; but I confess my reason is much too weak for it. Sir, we are attempting to build one government out of thirteen; preserving, however, the states, as parts of the system, for local purposes, and to give it support and beauty. The truth is, the states, and the United States, have distinct objects. They are both supreme. As to national objects, the latter is supreme; as to internal and domestic objects, the former. I can easily conceive of two joint tenures, and of joint jurisdictions without control. If I wanted an example, I might instance the mine, Mr. Chairman, in which you and others have a joint property and concurrent jurisdiction. But why should the states hold the purse? How are they to use it? They have not to pay the civil list, to main-

tain the army or navy. What will they do with it? What is the sword, which the gentlemen talk of? How is Congress to defend us without a sword? You will also keep that. How shall it be handled? Shall we all take hold of it? I never knew, till now, the design of a curious image I have seen at the head of one of our newspapers. I am now convinced that the idea was prophetic in the printer. It was a figure of thirteen hands, in an awkward position, grasping a perpendicular sword. As the arms which supported it were on every side, I could see no way of moving it, but by drawing it through, with the hazard of dangerously cutting the fingers. For my own part, I should be for crying, "hands off!" But this sword of the gentlemen's is a visionary sword—a mere empty pageant; and yet they would never trust it out of the state scabbard, lest it should wound somebody. They wish for checks against what can do no harm. They contend for a phantom. Gentlemen should consider their arguments before they come here. Sir, our reasoning on this ground is conclusive. If it be necessary to trust our defence to the Union, it is necessary that we should trust it with the sword to defend us, and the purse to give the sword effect. I have heard not a shadow of an argument to shake the truth of this. But the gentlemen will talk—it is expected. It is necessary that they should support, in this house, the opinions they have propagated out of doors, but which perhaps they had themselves too hastily formed.

Sir, one word with respect to excise. When I addressed the committee on Friday last, I observed, that the amendment would operate with great inconvenience; that, at a future period, this would be a manufacturing country; and then there would be many proper objects of excise. But the gentleman, in answer to this, says we ought not to look forward to a future period. What, then, must be this government of a day? It is the third time we have been making a government, and God grant it may be the last.

WEDNESDAY, July 2, 1788.—Mr. G. LIVINGSTON. Sir, I perfectly agree, with every gentleman that has spoken on this clause, that it is most important; and I likewise agree with those of the honorable members who think that, if this section is not amended, there will not the shadow of liberty be left to the states, as states. The honorable mem-

ber from New York, (Mr. Hamilton,) on Saturday, went largely into the jurisdiction of the section as it stands; asserted that the government was truly republican — good and safe; that it would never be the interest of the general government to dissolve the states; that there was a concurrent jurisdiction, independent as to every thing but imports that the states had a supreme, uncontrolled, and uncontrollable power, in common with the general government, to every branch of revenue, except as to imposts, post-office, and the restraint with respect to exports; that, with respect to any productive source of revenue left, whichever (the general government or particular state) applied first would obtain it. As to the safety in the general government, considered as a complete republican government, several honorable members, as well as my worthy colleague, have fully considered, and in my humble opinion clearly shown, that it cannot be fully depended on as safe, on the score of representation. Therefore I conceive the state governments are necessary as the barrier between the people's liberties and any invasion which may be attempted on them by the general government. The honorable gentleman from New York has given us a new kind of power, or rather endeavored to show that power can be equally exercised in a way I believe never before thought of; that is, two bodies, which have, or at least may have, separate and indeed contrary interests, to have at the same time uncontrollable power to derive support from, and have complete direction of, the same branch of revenue.

It seems, sir, to be agreed that state governments are necessary. The state governments will undoubtedly endeavor to support themselves. It also seems to be agreed that the general government will want all the money they can raise: it is in my mind as true (if they possibly can) that they will raise all they want. Now, sir, what will be the consequence, the probable consequence, in this taxing, collecting squabble? I think, sir, we may conclude, with great certainty, that the people will, between them, be pretty well taxed. An honorable member from New York, (chancellor,) on Friday last, endeavored to prove, and yesterday again tauntingly mentioned it, that, because taxes are annually collected in our counties, for state and county purposes, by the same collector, authorized by the same legislature,

appointed by the same assessors, and to support the same government, — that, therefore, the same sources of revenue may safely be applied to, without any danger of clashing interference, for different purposes and by different powers — nay, by powers between whom, it seems to be agreed, there will be a struggle for supremacy; and one of the gentlemen (Mr. Hamilton) declares his apprehensions to be that, in the issue, the state governments will get the victory, and totally supplant the general government. Others, I believe with great probability of truth, think the states will cut but a scurvy figure in the unequal contest. This, sir, however, seems certain, that a contention there must be between them. Is this wise, Mr. Chairman, — now, when we are deliberating on a form of government which we suppose will affect our posterity to many ages, — to adopt a system in which we see, clearly see, the seeds of feud, contest, jealousy, and confusion? Further, sir, it is agreed that the support of the general government is of the utmost importance on the great scale; it is contended by some, as before mentioned, that, if both powers — the supreme, coëxisting, coëqual powers — should tax the same objects, the state taxes would be best paid. What, sir, would be the consequence? Why, the others would be badly paid, or not paid at all. What, then, is to become of your government? In this case, it must be annihilated indeed. Will this do? This bantling, sir, ought to be better provided for. For my part, I like it too well — if a little amended — to agree to a provision which is manifestly not sufficient for its support; for, if the gentleman's arguments have weight in them, (and that I would not wish to contest,) this government must fail; the states will be too many for it. My opinion is, sir, that a line be drawn. Certain and sufficient resources ought to be left solely to the states, as states, which the amendment does. And as the general government has some particular ones altogether at its command, so also ought there to be a right of requisition for what the specific funds may be deficient in. Sir, this requisition will have, in my opinion, directly a contrary effect to what some gentlemen suppose. It will serve to impress both the general government, as well as the particular state governments, with this important idea — that they conjointly are the guardians of the rights of the whole American family, differ-

ent parts of the administration of the concerns of which being intrusted to them respectively. In the one case, Congress, as the head, will take care of the general concerns of the whole : in the other, the particular legislatures, as the stewards of the people, will attend to the more minute affairs. Thus, sir, I wish to see the whole transacted in amity and peace, and no other contest than what may arise in the strife which may best answer the general end proposed, — to wit, peace, happiness, and safety.

Further, sir. It has been frequently remarked, from one side of the house, that most of the amendments proposed go on the supposition that corruption may possibly creep into the general government, and seem to discard the idea, as totally improbable. Of what kind of beings, sir, is the general government to be composed? If of men, I think it probable, at least, they may be corrupt. Indeed, if it were not for the depravity of human nature, we should stand in no need of human government at all.

Sir, I should not have added, but I am led to do it, — thus publicly to hold up my testimony to the world against the illiberal treatment we met with yesterday, and that from a quarter I little expected. Had I not been present, I should hardly have believed it possible that the honorable member from New York, who harangued the committee yesterday with such a torrent of illiberality, was the same man who, at the opening of the debates of this Convention, could wish that we should investigate with candor.

Will men, sir, by being called children, be convinced there is no reason in their arguments, or that there is strength in those of their opponents? I confess, sir, in the case before us, they will see strength in the gentleman's argument, (if what was said might be called an argument;) it was strong; and (to use one of the member's own similes) it consisted wholly of *brass*, without any mixture of clay; and by a luxuriance of fancy which that member is famous for, and I suppose for the sake of variety, he has taken it from the feet and toes, where, on another occasion, he had emphatically placed it, and now has displayed it wholly in front.

The honorable member, sir, wrought himself up into such a strain of ridicule, that, after exhausting his admirable talents in this sublime and gentlemanlike science on his opponents, he finds another subject to display them on, in

the emblem of liberty, the pillar and cap, which the friend and assertor of the rights of his fellow-citizens, John Holt, late printer of the New York Journal, in perilous times dared to use, as expressive of his own whiggish sentiments; who must be hauled from his grave for the purpose—but whose memory, maugre all the invectives which disdain may wish to throw upon it, will be dear to this country as long as the friends of liberty will dare to show their heads in it. Indeed, sir, this is not the first time that this emblem of liberty has been endeavored to be held up in a ridiculous point of light. And let me tell you, Mr. Chairman, it has the same effect on me now it had the first time. It roused every spark of whiggish resentment about my heart. In or about the year 1775, this cap of liberty was the subject of the tory wit of Vardel, or some of his associates about King's College, (as was supposed.) The member, who now exactly follows their track, (if they were the authors of it,) at that time found it not to his purpose openly to avow the sentiment.

But, sir, from the light in which he appears to hold the wavering conduct of *up, up, up*—and *down, down, down*—and *round, round, round*,—we are led to suppose, that his real sentiments are not subject to vary, but have been uniform throughout. I will leave the gentleman himself to reflect, what are the consequences which will naturally follow from these premises. If he does not like them, I cannot help it; he must be more careful, in future, in laying down propositions from which such consequences will follow.

I repeat, sir, that the member, in the first place, endeavors to ridicule the gentlemen opposed to him in sentiment. That was not enough; he must next attack the memory of the distinguished emblem of that good old whig, Mr. Holt. But, sir, as he laughed at a worthy member for making what he termed an anti-climax, he appears to be determined to make his own complete; and, for want of a third part more to his purpose, he finishes by an indirect though fashionable attempt to ridicule the sacred gospel itself, and the faith necessary for a sinner to partake of the benefits contained in it.

Before I sit down, sir, I must lament the occasion of the remarks I have last made. When gentlemen will, for the sake of displaying their own parts, or perhaps for worse

purposes, depart from the line of propriety, then they are fair game. I cannot suppose, however, that it is disagreeable to the member himself, as he appears to delight to dabble in dirty water.

Mr. WILLIAMS. Mr. Chairman, although I think the speech of an honorable gentleman from New York totally undeserving of notice, with regard to argument, yet, as he has taken upon himself to misstate some of my sentiments; and attribute improper motives to me, I shall make a very short reply. He observed, that I said the state government was imperfect, because it answered my purpose. With equal justice I might retort that the honorable gentleman has been frequently talking of the defects of the articles of the Confederation, because it answered his purpose. But, sir, I said no more of the state Constitution than I can say with propriety of every thing else — that nothing is perfect. Even the honorable gentleman's wit and fancy cannot lay claim to perfection, or he would not have introduced the vulgar idea of children's tottering with boards. The gentleman observed, that I alleged that the Congress would rob the people of the light of heaven, and pick their pockets. This egregious misstatement I cannot account for. I have heard that a great philosopher endeavored to prove that ridicule was the test of truth; but, with the honorable gentleman, misrepresentation is the test of ridicule.

I think, sir, that no prudent people will trust power with their rulers, that cannot be exercised without injuring them. This I suppose to be the case with poll taxes. But the honorable gentleman hath not attempted to overthrow either the arguments of the honorable gentlemen who have spoken in favor of the amendment I had the honor to propose, or my own. He hath indeed attacked us with wit and fancy. If, however, we supposed him a formidable adversary, upon these considerations, and attempted to combat him with the same weapons, would it not be as ridiculous as it was for Don Quixote to fight with a windmill, upon the mad supposition that it was a giant? The gentleman had also observed, that every member of the committee was convinced, by the arguments of an honorable gentleman from New York, of the propriety of this paragraph, except the honorable gentleman from Dutchess. Now, sir, how the honorable gentleman came to discover this, I cannot say: this I

can say, for myself, that I am not convinced. The gentleman must, indeed, possess some wonderful faculties, if he can penetrate into the operations of the mind; he must, sir, possess the second sight in a surprising degree. Sir, I should, however, be very uncandid, if I attributed the gentleman's satirical remarks to a malevolent disposition: I do not, sir. I impute them to his politeness, which is the art of pleasing. Now, sir, every person must acknowledge that the honorable gentleman gave a great deal of pleasure yesterday, if laughter is a sign of pleasure; consequently, he was very polite. Sir, I shall not enter seriously into the subject until I hear serious answers to what I have offered to the committee. Sir, to conclude, the honorable gentleman, in my eye, from New York, may substitute his fanciful notions in the room of arguments; he may, sir, by his ridiculous—I mean ridiculing—powers, excite laughter and occasion smiles; but, trust me, sir, they will, instead of having the desired effect—instead of frightening—be considered with contempt.

The Hon. Mr. SMITH. Mr. Chairman, the honorable gentleman who spoke yesterday animadverted, in a very ludicrous manner, upon my arguments, and endeavored to place them in a ridiculous point of view. Perhaps it was necessary that the Convention should be diverted with something fanciful, and that they should be relieved from the tediousness of a dull debate by a few flashes of merriment. I suppose it was for this purpose that the gentleman was induced to make so handsome a display of his comic talents, to the no small entertainment of the ladies and gentlemen without the bar. It is well known that, in theatrical exhibitions, the farce succeeds the tragedy. Now, as another honorable gentleman (Mr. Duane) had, but the day before, called to our minds, in a most dismal picture, the tragic scenes of war, devastation, and bloodshed, it was entirely proper that our feelings should be relieved from the shocking impression by a light and musical play. I think the gentleman has acquitted himself admirably. However, his attack seems to have thrown him off his guard, and to have exposed him to his own weapons. The gentleman might well have turned his strictures upon his own contradictions; for, at one time, he argues that a federal republic is impracticable; at another, he argues that the proposed government

is a federal republic. At one time, he says the old Confederation has no power at all; at another, he says it has nearly as many as the one proposed. He seems to be an enemy to creeds; and yet, with respect to concurrent jurisdiction, he presents us with his creed, which we are bound to believe. Let us hear it. "I believe that the general government is supreme, and that the state governments are supreme; and yet they are not two supremes, but one supreme; and this cannot be doubted." He says there is a concurrent jurisdiction in your mine, Mr. Chairman, and yet you do not concur; for the gentleman himself claims the soil, and there seems to be a difference between you. But, as the honorable gentleman considers his harangue as containing some reasoning, I shall take notice of a few remarks.

The gentleman has said that the committee seemed to be convinced by the arguments of an honorable member from New York. I suppose it was only a fancy of the moment that struck him, of which he can probably give no better account than the rest of us. I can only say for myself, that, the more I hear and reflect, the more convinced I am of the necessity of amendment. Whether the committee have received conviction can easily be settled by a vote.

The gentleman from Washington has said that even the state of New York was not a perfect form. In the course of my argument, I observed that the state legislatures were competent to good government, and that it was not proper to exchange governments at so great a risk. Where is the mighty contradiction? I said that the state governments were proper depositories of power, and were the proper guardians of the people. I did not say that any government was perfect, nor did I ascribe any extraordinary qualities to the states. The gentleman endeavors to fix another contradiction upon me. He charges me with saying that direct taxes are dangerous and yet impracticable. This is an egregious misrepresentation. My declaration was, that general direct taxes would be extremely difficult in the apportionment and collection, and that this difficulty would push the general government into despotic measures. The gentleman also ridicules our idea of the states losing their powers. He says this Constitution adds little or no power to the Union, and consequently takes little or nothing from the states. If this be true, what are the advocates of the

system contending about? It is the reasoning among all reasoners, that nothing to something adds nothing. If the new plan does not contain any new powers, why advocate it? If it does, whence are they taken? The honorable member cannot understand our argument about the sword and the purse, and asks, Why should the states hold them? I say, the state governments ought to hold the purse, to keep people's hands out of it. With respect to the sword, I say you must handle it, through your general government; but the states must have some agency, or the people will not be willing to put their hands to it. It is observed that we must talk a great deal, and that it is necessary to support here what we have said out of doors. Sir, I conceive that we ought to talk of this subject every where. Several gentlemen have observed that it is necessary these powers should be vested in Congress, that they may have funds to pledge for the payment of debts. This argument has not the least weight in my mind. The government ought not to have it in their power to borrow with too great facility. The funds which we agree to lodge with Congress will be sufficient for as much as they ought to borrow.

I submit to the candor of the committee, whether any evidence of the strength of a cause is afforded, when gentlemen, instead of reasoning fairly, assert roundly, and use all the powers of ridicule and rhetoric to abuse their adversaries. Any argument may be placed in a ridiculous light, by taking only detached parts. I wish, Mr. Chairman, that ridicule may be avoided. It can only irritate the passions, and has no tendency to convince the judgment.

The CHANCELLOR said, he was very unfortunate in provoking so many able antagonists. They had given a turn to his arguments and expressions which he did not expect. He was, however, happy that he could say, with Sir John Falstaff, that if he had no wit himself, he had been the occasion of wit in others; and therefore he supposed that the ladies, this day, had been as well entertained as yesterday. He went on to explain what the gentleman had imputed to him as contradictions. He had charged him with saying that a federal government could not exist, and yet that he had contended for one. This was false; he had maintained that a single league of states could not long exist, and had proved it by examples. This was fair reasoning,

and he had not said any thing to contradict it. He then went through a review of his arguments, to prove that he had been misrepresented, and that he had been consistent throughout. But, said the chancellor, what most deeply wounds me is, that my worthy kinsman across the table, regardless of our common ancestry, and the tender ties of blood, should join his dagger with the rest, and compel me to exclaim, in the dying words of Cæsar, "And thou, too, Brutus!" The gentleman alleges, first, that I have treated the holy gospel with disdain. This is a serious charge. I deny it. If I have used a phrase disagreeable to him, I certainly have expressed nothing disrespectful of the Scriptures. If I have used a few words, there are gentlemen who have quoted, not only verses, but chapters. He tells you I have insulted the good Mr. Holt: I declare, I did not know the newspaper I referred to was his. He then tells you that my sentiments are illiberal, and that I insinuate that the worthy printer did not act on sound principles of whiggism. If this were true, my insinuations would indeed be both illiberal and false. Sir, if gentlemen will come forward with absurd arguments, imagine erroneous premises, and draw false conclusions, shall they not be exposed? and if their contradictions render them ridiculous, is it my fault? Are not the absurdities of public speakers ridiculed in all countries? Why not expose false reasoning? Why not pluck from Sophistry the delusive veil by which she imposes on the people? If I am guilty of absurdities, let them be detected and displayed. If the fool's cap fits me, clap it on: I will wear it, and all shall laugh. Sir, the very day after I made my first speech to this committee, I was attacked with great severity, and with unusual weapons. A dreadful and terrible beast, with great iron claws and ghastly look, was made to grin horribly in my face. I appeal to this committee, sir, whether gentlemen have not said plainly, that the powers of Congress would be dangerous, and yet impracticable. If they will speak such nonsense, they must be exposed. Their other arguments are equally ridiculous; they reason in confusion. They form a government, to consist of thirteen governments; one controls thirteen, and thirteen control one. With regard to the sword and the purse, I could have no conception of Congress keeping a sword, and the states using it; of Congress using a purse, and the states keeping it; of Congress

having power, and the states exercising it. I could not reconcile these things to my reason. Sir, when any argument, on such a subject as this, strikes me as being absurd and ridiculous, I cannot conceal my emotions; I think it my duty to expose it boldly; and I shall continue to do this, without any apprehensions from those virulent attacks which have been aimed at me from every quarter.

Mr. TREDWELL. Sir, little accustomed to speak in public, and always inclined, in such an assembly as this, to be a hearer rather than a speaker, on a less important occasion than the present I should have contented myself with a silent vote; but when I consider the nature of this dispute, that it is a contest, not between little states and great states, (as we have been told,) between little folks and great folks, between patriotism and ambition, between freedom and power; not so much between the navigating and non-navigating states, as between navigating and non-navigating individuals, (for not one of the amendments we contend for has the least reference to the clashing interests of states;) when I consider, likewise, that a people jealous of their liberties, and strongly attached to freedom, have reposed so entire a confidence in this assembly, that upon our determination depends their future enjoyment of those invaluable rights and privileges, which they have so lately and so gallantly defended at every risk and expense, both of life and property, — it appears to me so interesting and important, that I cannot be totally silent on the occasion, lest lisping babes should be taught to curse my name, as a betrayer of their freedom and happiness.

The gentleman who first opened this debate did (with an emphasis which I believe convinced every one present of the propriety of the advice) urge the necessity of proceeding, in our deliberations on this important subject, coolly and dispassionately. With how much candor this advice was given, appears from the subsequent parts of a long speech, and from several subsequent speeches almost totally addressed to our fears. The people of New Jersey and Connecticut are so exceedingly exasperated against us, that, totally regardless of their own preservation, they will take the two rivers of Connecticut and Delaware by their extremities, and, by dragging them over our country, will, by a sweeping deluge, wash us all into the Hudson, leaving neither house nor

inhabitant behind them. But if this event should not happen, doubtless the Vermontese, with the British and Tories our natural enemies, would, by bringing down upon us the great Lake Ontario, sweep hills and mountains, houses and inhabitants, in one deluge, into the Atlantic. These, indeed, would be terrible calamities; but terrible as they are, they are not to be compared with the horrors and desolation of tyranny. The arbitrary courts of Philip in the Netherlands, in which life and property were daily confiscated without a jury, occasioned as much misery and a more rapid depopulation of the province, before the people took up arms in their own defence, than all the armies of that haughty monarch were able to effect afterwards; and it is doubtful, in my mind, whether governments, by abusing their powers, have not occasioned as much misery and distress, and nearly as great devastations of the human species, as all the wars which have happened since Milton's battle of the angels to the present day. The end or design of government is, or ought to be, the safety, peace, and welfare of the governed. Unwise, therefore, and absurd in the highest degree, would be the conduct of that people, who, in forming a government, should give to their rulers power to destroy them and their property, and thereby defeat the very purpose of their institutions; or, in other words, should give unlimited power to their rulers, and not retain in their own hands the means of their own preservation. The first governments in the world were parental, the powers of which were restrained by the laws of nature; and doubtless the early succeeding governments were formed on the same plan, which, we may suppose, answered tolerably well in the first ages of the world, while the moral sense was strong, and the laws of nature well understood, there being then no lawyers to explain them away. But in after times, when kings became great, and courts crowded, it was discovered that governments should have a right to tyrannize, and a power to oppress; and at the present day, when the *juris periti* are become so skilful in their profession, and quibbling is reduced to a science, it is become extremely difficult to form a constitution which will secure liberty and happiness to the people, or laws under which property is safe. Hence, in modern times, the design of the people, in forming an original constitution of government, is not so much to give powers to their rulers, as to guard

against the abuse of them; but, in a federal one, it is different.

Sir, I introduce these observations to combat certain principles which have been daily and confidently advanced by the favorers of the present Constitution, and which appear to me totally indefensible. The first and grand leading, or rather misleading, principle in this debate, and on which the advocates for this system of unrestricted powers must chiefly depend for its support, is that, in forming a constitution, whatever powers are not expressly granted or given the government, are reserved to the people, or that rulers cannot exercise any powers but those expressly given to them by the Constitution. Let me ask the gentlemen who advanced this principle, whether the commission of a Roman dictator, which was in these few words — to take care that the state received no harm — does not come up fully to their ideas of an energetic government; or whether an invitation from the people to one or more to come and rule over them, would not clothe the rulers with sufficient powers. If so, the principle they advance is a false one. Besides, the absurdity of this principle will evidently appear, when we consider the great variety of objects to which the powers of the government must necessarily extend, and that an express enumeration of them all would probably fill as many volumes as Pool's Synopsis of the Critics. But we may reason with sufficient certainty on the subject, from the sense of all the public bodies in the United States, who had occasion to form new constitutions. They have uniformly acted upon a direct and contrary principle, not only in forming the state constitutions and the old Confederation, but also in forming this very Constitution, for we do not find in every state constitution express resolutions made in favor of the people; and it is clear that the late Convention at Philadelphia, whatever might have been the sentiments of some of its members, did not adopt the principle, for they have made certain reservations and restrictions, which, upon that principle, would have been totally useless and unnecessary; and can it be supposed that that wise body, whose only apology for the great ambiguity of many parts of that performance, and the total omission of some things which many esteem essential to the security of liberty, was a great desire of brevity, should so far sacrifice that great and important object, as to insert a number of provisions which they esteemed totally

useless? Why is it said that the privilege of the writ of *habeas corpus* shall not be suspended, unless, in cases of rebellion or invasion, the public safety may require it? What clause in the Constitution, except this very clause itself, gives the general government a power to deprive us of that great privilege, so sacredly secured to us by our state constitutions? Why is it provided that no bill of attainder shall be passed, or that no title of nobility shall be granted? Are there any clauses in the Constitution extending the powers of the general government to these objects? Some gentlemen say that these, though not necessary, were inserted for greater caution. I could have wished, sir, that a greater caution had been used to secure to us the freedom of election, a sufficient and responsible representation, the freedom of the press, and the trial by jury both in civil and criminal cases.

These, sir, are the rocks on which the Constitution should have rested; no other foundation can any man lay, which will secure the sacred temple of freedom against the power of the great, the undermining arts of ambition, and the blasts of profane scoffers — for such there will be in every age — who will tell us that all religion is in vain; that is, that our political creeds, which have been handed down to us by our forefathers as sacredly as our Bibles, and for which more of them have suffered martyrdom than for the creed of the apostles, are all nonsense; who will tell us that paper constitutions are mere paper, and that parchment is but parchment, that jealousy of our rulers is a sin, &c. I could have wished also that sufficient caution had been used to secure to us our religious liberties, and to have prevented the general government from tyrannizing over our consciences by a religious establishment — a tyranny of all others most dreadful, and which will assuredly be exercised whenever it shall be thought necessary for the promotion and support of their political measures. It is ardently to be wished, sir, that these and other invaluable rights of freemen had been as cautiously secured as some of the paltry local interests of some of the individual states. But it appears to me, that, in forming this Constitution, we have run into the same error which the lawyers and Pharisees of old were charged with; that is, while we have secured the tithes of mint, anise, and cumin, we have neglected the weightier matters of the law, judg

ment, mercy, and faith. Have we not neglected to secure to ourselves the weighty matters of judgment or justice, by empowering the general government to establish one supreme, and as many inferior, courts as they please, whose proceedings they have a right to fix and regulate as they shall think fit, so that we are ignorant whether they shall be according to the common, civil, the Jewish, or Turkish law? What better provisions have we made for mercy, when a man, for ignorantly passing a counterfeit continental note, or bill of credit, is liable to be dragged to a distant county, two or three hundred miles from home, deprived of the support and assistance of friends, to be tried by a strange jury, ignorant of his character, ignorant of the character of the witnesses, unable to contradict any false testimony brought against him by their own knowledge of facts, and with whom the prisoner being unacquainted, he must be deprived totally of the benefit of his challenge? and besides all that, he may be exposed to lose his life, merely for want of property to carry his witnesses to such a distance; and after all this solemn farce and mockery of a trial by jury, if they should acquit him, it will require more ingenuity than I am master of, to show that he does not hold his life at the will and pleasure of the Supreme Court, to which an appeal lies, and consequently depend on the tender mercies, perhaps, of the wicked, (for judges may be wicked;) and what those tender mercies are, I need not tell you. You may read them in the history of the Star Chamber Court in England, and in the courts of Philip, and in your Bible.

This brings me to the third and last weighty matter mentioned in the text—to wit, faith. The word *faith* may, with great propriety, be applied to the articles of our political creed, which, it is absolutely necessary, should be kept pure and uncorrupted, if we mean to preserve the liberties of our country and the inestimable blessings of a free government. And, sir, I cannot but be seriously alarmed on this head, as has frequently been the case during the present discussion,—gentlemen of the first rank and abilities openly opposing some of the most essential principles of freedom, and endeavoring, by the most ingenious sophistry, and the still more powerful weapons of ridicule, to shake or corrupt our faith therein. Have we not been told that, if government is but properly organized, and the powers were

suitably distributed among the several members, it is unnecessary to provide any other security against the abuse of its power? that power thus distributed needs no restriction? Is this a whig principle? Does not every constitution on the continent contradict this position? Why are we told that all restrictions of power are found to be inconvenient? that we ought to put unlimited confidence in our rulers. that it is not our duty to be jealous of men in power? Have we not had an idea thrown out of establishing an aristocracy in our own country, — a government than which none is more dreadful and oppressive?

What the design of the preacher on this occasion is, I will not attempt to determine; far be it from me to judge men's hearts: but thus much I can say, from the best authority, they are deceitful above all things, and desperately wicked. But whatever be the design of the preachers, the tendency of their doctrines is clear; they tend to corrupt our political faith, to take us off our guard, and lull to sleep that jealousy which, we are told by all writers, — and it is proved by all experience, — is essentially necessary for the preservation of freedom. But notwithstanding the strongest assertions that there are no wolves in our country, if we see their footsteps in every public path, we should be very credulous and unwise to trust our flocks abroad, and to believe that those who advised us to do it were very anxious for their preservation.

In this Constitution, sir, we have departed widely from the principles and political faith of '76, when the spirit of liberty ran high, and danger put a curb on ambition. Here we find no security for the rights of individuals, no security for the existence of our state governments; here is no bill of rights, no proper restriction of power; our lives, our property, and our consciences, are left wholly at the mercy of the legislature, and the powers of the judiciary may be extended to any degree short of almighty. Sir, in this Constitution we have not only neglected, — we have done worse, — we have openly violated, our faith, — that is, our public faith.

The seventh article, which is in these words, "The ratifications of the Conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same," is so flagrant a violation of the public faith of these states, so solemnly pledged to each other in

the Confederation, as makes me tremble to reflect upon ; for, however lightly some may think of *paper* and *parchment* constitutions, they are recorded, sir, in that high court of appeals, the Judge of which will do right, and I am confident that no such violation of public faith ever did, or ever will, go unpunished.

The plan of the *federal city*, sir, departs from every principle of freedom, as far as the distance of the two polar stars from each other ; for, subjecting the inhabitants of that district to the exclusive legislation of Congress, in whose appointment they have no share or vote, is laying a foundation on which may be erected as complete a tyranny as can be found in the Eastern world. Nor do I see how this evil can possibly be prevented, without razing the foundation of this happy place, where men are to live, without labor, upon the fruit of the labors of others ; this political hive, where all the drones in the society are to be collected to feed on the honey of the land. How dangerous this city may be, and what its operation on the general liberties of this country, time alone must discover ; but I pray God, it may not prove to this western world what the city of Rome, enjoying a similar constitution, did to the eastern.

There is another clause in this Constitution, which, though there is no prospect of getting it amended, I think ought not to be passed over in silence, lest such a silence should be construed into a tacit approbation of it. I mean the clause which restricts the general government from putting a stop, for a number of years, to a commerce which is a stain to the commerce of any civilized nation, and has already blackened half the plains of America with a race of wretches made so by our cruel policy and avarice, and which appears to me to be already repugnant to every principle of humanity, morality, religion, and good policy. There are other objections to this Constitution, which are weighty and unanswerable ; but they have been so clearly stated, and so fully debated, in the course of this discussion, that it would be an unjustifiable intrusion on the patience of the house to repeat them. I shall therefore content myself with a few observations on the general plan and tendency. We are told that this is a federal government. I think, sir, there is as much propriety in the name, as in that which its advocates assume, and no more ; it is, in my idea, as complete a

consolidation as the government of this state, in which legislative powers, to a certain extent, are exercised by the several towns and corporations. The sole difference between a state government under this Constitution, and a corporation under a state government, is, that a state being more extensive than a town, its powers are likewise proportionably extended; but neither of them enjoys the least share of sovereignty; for, let me ask, what is a state government? What sovereignty, what power is left to it, when the control of every source of revenue, and the total command of the militia, are given to the general government? That power which can command both the property and the persons of the community, is the sovereign, and the sole sovereign. The idea of two distinct sovereigns in the same country, separately *possessed* of sovereign and supreme power, in the same matters at the same time, is as supreme an absurdity, as that two distinct separate circles can be bounded exactly by the same circumference. This, sir, is demonstration; and from it I draw one corollary, which, I think, clearly follows, although it is in favor of the Constitution, to wit — that at least that clause in which Congress guaranties to the several states a republican *form* of government, speaks honestly; that is, that no more is intended by it than is expressed; and I think it is clear that, whilst the mere form is secured, the substance—to wit, the whole power and sovereignty of our state governments, and with them the liberties of the country—is swallowed up by the general government; for it is well worth observing, that, while our state governments are held up to us as the great and sufficient security of our rights and privileges, it is carefully provided that they shall be disarmed of all power, and made totally dependent on the bounty of Congress for their support, and consequently for their existence,—so that we have scarce a single right secured under either.

Is this, sir, a government for freemen? Are we thus to be duped out of our liberties? I hope, sir, our affairs have not yet arrived to that long-wished-for pitch of confusion, that we are under the necessity of accepting such a system of government as this.

I cannot, sir, express my feelings on a late occasion, when I consider with what unspeakable indignation the spirit of a Montgomery, a Herkimer, a Paris, &c., must have fired

at the insults offered to their memories on this floor, and that not by a stranger, but by a brother, when their names, which will ever be dear to freemen, were profanely called upon as an inducement for us to surrender up those rights and privileges, in the defence of which they so gallantly fought, and so gloriously died. We are called upon at this time (I think it is an early day) to make an unconditional surrender of those rights which ought to be dearer to us than our lives.

But I hope, sir, that the memory of these patriot heroes will teach us a duty on this occasion. If we follow their example, we are sure not to err. We ought, sir, to consider—and it is a most solemn consideration—that we may now give away, by a vote, what it may cost the dying groans of thousands to recover; that we may now surrender, with a little ink, what it may cost seas of blood to regain; the dagger of Ambition is now pointed at the fair bosom of Liberty, and, to deepen and complete the tragedy, we, her sons, are called upon to give the fatal thrust. Shall we not recoil at such a deed, and all cry out with one voice, “Hands off!” What distraction has seized us? Is she not our mother, and if the frenzy of any should persist in the parricidal attempt, shall we not instantly interpose, and receive the fatal point into our own bosom? A moment’s hesitation would ever prove us to be bastards, not sons. The liberties of the country are a deposit, a trust, in the hands of individuals; they are an entailed estate, which the possessors have no right to dispose of; they belong to our children, and to them we are bound to transmit them as a representative body. The trust becomes tenfold more sacred in our hands, especially as it was committed to us with the fullest confidence in our sentiments, integrity, and firmness. If we should betray that trust on this occasion, I fear (think there is reason to fear) that it will teach a lesson dangerous to liberty—to wit, that no confidence is to be placed in men.

But why, sir, must we be guilty of this breach of trust? Why surrender up the dear-bought liberties of our country? Because we are told, in very positive terms, that nothing short of this will satisfy, or can be accepted by, our future rulers? Is it possible that we can be at a loss for an answer to such declarations as these? Can we not, ought we not

to speak like freemen on this occasion, (this perhaps may be the last time when we shall dare to do it,) and declare, in as positive terms, that we cannot, we will not, give up our liberties; that, if we cannot be admitted into the Union as freemen, we will not come in as slaves? This I fully believe to be the language of my constituents; this is the language of my conscience; and, though I may not dare longer to make it the language of my tongue, yet I trust it will ever be the language of my heart. If we act with coolness, firmness, and decision, on this occasion, I have the fullest confidence that the God who has so lately delivered us out of the paw of the lion and the bear, will also deliver us from this Goliath, this uncircumcised Philistine. This government is founded in sin, and reared up in iniquity; the foundations are laid in a most sinful breach of public trust, and the top-stone is a most iniquitous breach of public faith; and I fear, if it goes into operation, we shall be justly punished with the total extinction of our civil liberties. We are invited, in this instance, to become partakers in other men's sins; if we do, we must likewise be content to take our share in the punishment.

We are told, sir, that a government is like a mad horse, which, notwithstanding all the curb you can put upon him, will sometimes run away with his rider. The idea is undoubtedly a just one. Would he not, therefore, justly be deemed a mad man, and deserve to have his neck broken, who should trust himself on this horse without any bridle at all? We are threatened, sir, if we do not come into the Union, with the resentment of our neighboring states. I do not apprehend we have much to fear from this quarter, for our neighbors must have the good sense to discover that not one of our objections is founded on motives of particular state interest. They must see likewise, from the debates, that every selfish idea that has been thrown out has come from those who very improperly call themselves the *federal* side of the house. A union with our sister states I as ardently desire as any man, and that upon the most generous principles; but a union under such a system as this, I think, is not a desirable thing. The design of a union is safety; but a union upon the proposed plan is certain destruction to liberty. In one sense, indeed, it may bring us to a state of safety, or it may reduce us to such a condition that we may be

very sure that nothing worse can happen to us, and consequently we shall have nothing to fear.

This, sir, is a dreadful kind of safety; but I confess it is the only kind of safety I can see in this union. There are no advantages that can possibly arise from a union which can compensate for the loss of freedom, nor can any evils be apprehended from a disunion which are as much to be dreaded as tyranny.

The committee then proceeded through sections 8, 9, and 10, of this article, and the whole of the next, with little or no debate. As the secretary read the paragraphs, amendments were moved, in the order and form hereafter recited.

To the paragraph respecting the *borrowing of money*, Mr. LANSING proposed the following amendment:—

“*Provided*, That no money be borrowed on the credit of the United States, without the assent of two thirds of the members of both houses present.”

To the clause respecting the establishment of *post-offices*, &c., Mr. JONES moved the following amendment:—

“*Resolved*, as the opinion of the committee, that the power of Congress to establish post-offices and post-roads is not to be construed to extend to the laying out, making, altering, or repairing highways, in any state, without the consent of the legislature of such state.”

To the clause respecting the raising and supporting *armies*, Mr. LANSING proposed the following:—

“*Provided*, That no standing army, or regular troops, shall be raised, or kept up, in time of peace, without the consent of two thirds of the members of both houses present.”

Respecting the organization and arming the *militia*, &c.,—

“*Provided*, That the militia of any state shall not be marched out of such state without the consent of the executive thereof, nor be continued in service out of the state, without the consent of the legislature thereof, for a longer term than six weeks; and *provided*, that the power to organize, arm, and discipline the militia, shall not be construed to extend further than to prescribe the mode of arming and disciplining the same.”

Moved by Mr. SMITH.

Respecting the power to make all *laws necessary* for the carrying the Constitution into execution, —

“*Provided*, That no power shall be exercised by Congress, but such as is expressly given by this Constitution; and all others, not expressly given, shall be reserved to the respective states, to be by them exercised.”

Moved by Mr. LANSING.

To the clause respecting the power of *regulating commerce*, —

“*Resolved*, as the opinion of this committee, that nothing in the said Constitution contained shall be construed to authorize Congress to grant monopolies, or erect any company with exclusive advantages of commerce.”

Moved by Mr. M. SMITH.

Relative to the right of *declaring war*, —

“*Resolved*, as the opinion of this committee, that the Congress ought not to have the power or right to declare war, without the concurrence of two thirds of the members of each house.”

Moved by Mr. TREDWELL.

Sec. 9. Respecting the privilege of *habeas corpus*, —

“*Provided*, That, whenever the privilege of *habeas corpus* shall be suspended, such suspension shall in no case exceed the term of six months, or until the next meeting of the Congress.”

Moved by Mr. LANSING.

Respecting *ex post facto* laws, —

“*Provided*, That the meaning of *ex post facto* laws shall not be construed to prevent calling public defaulters to account, but shall extend only to crimes.”

Moved by Mr. TREDWELL.

Respecting the *ratio* in which *taxes* shall be laid, —

“*Resolved*, as the opinion of this committee, that no capitation tax ought ever to be laid.”

Moved by Mr. TREDWELL.

Clause relative to the publication of the *receipts* and *expenditures*, —

“*Provided*, That the words *from time to time* shall be so construed, as that the receipts and expenditures of public money shall be published at least once in every year, and be transmitted to the executives of the several states, to be laid before the legislatures thereof.”

Moved by Mr. TREDWELL.

Clause relating to the granting *titles of nobility*, —

“*Resolved*, as the opinion of this committee, that the Congress shall at no time consent that any person, holding any office of profit or trust in or under the United States, shall accept of any title of nobility from any king, prince, or foreign state.”

Moved by Mr. M. SMITH.

FRIDAY, July 4, 1788. — Committee proceeded to article 2.

Sec. 1. Clause respecting the *office of President*, —

“*Resolved*, as the opinion of this committee, that the President of the United States should hold his office during the term of seven years, and that he should not be eligible a second time.”

Moved by Mr. SMITH.

Sec. 2. Clause 1, respecting the *powers of the President*, —

"*Resolved*, as the opinion of this committee, that the President of the United States should never command the army, militia, or navy of the United States, in person, without the consent of the Congress; and that he should not have the power to grant pardons for treason, without the consent of the Congress; but that, in cases where persons are convicted of treason, he should have authority to grant reprieves, until their cases can be laid before the Congress."

Moved by Mr. G. LIVINGSTON.

SATURDAY, July 5, 1788. — Sec. 2. Clause 2. Amendment moved by Mr. M. SMITH: —

"*Resolved*, as the opinion of this committee, that the Congress should appoint, in such manner as they may think proper, a council to advise the President in the appointment of officers; that the said council should continue in office for four years; that they should keep a record of their proceedings, and sign the same, and always be responsible for their advice, and impeachable for malconduct in office; that the counsellors should have a reasonable allowance for their services, fixed by a standing law; and that no man should be elected a counsellor who shall not have attained to the age of thirty-five years, and who is not either a natural-born citizen, or has not become a citizen before the 4th day of July, 1776."

Clause 3. Motion by Mr. M. SMITH: —

"*Provided*, That all commissions, writs, and processes, shall run in the name of the people of the United States, and be tested in the name of the President of the United States, or the person holding his place for the time being, or the first judge of the court out of which the same shall issue."

The committee then took up the 3d article.

Mr. JONES proposed the following amendments, which he explained in a speech of some length, and was followed by Mr. SMITH; but no debate ensued: —

"*Resolved*, as the opinion of this committee, that nothing in the Constitution now under consideration contained shall be construed so as to authorize the Congress to constitute, ordain, or establish, any tribunals, or inferior courts, with any other than appellate jurisdiction, except such as may be necessary for trial of causes of admiralty and maritime jurisdiction, and for the trial of piracies and felonies committed on the high seas; and in all other cases to which the judicial power of the United States extends, and in which the Supreme Court of the United States has no original jurisdiction, the cause shall be heard, tried, and determined in some of the state courts, with the right of appeal to the Supreme Court of the United States, or other proper tribunal, to be established for the purpose by the Congress, with such exceptions, and under such regulations, as the Congress shall make."

As the secretary went on with this article, Mr. JONES submitted the following amendments: —

Resolve 1. "*Resolved*, as the opinion of this committee, that all

appeals from any courts in this state, proceeding according to the course of the common law, are to be by writ of error, and not otherwise."

Res. 2. "*Resolved*, as the opinion of this committee, that no judge of the Supreme Court of the United States shall, during his continuance in office, hold any other office under the United States, or any of them."

Res. 3. "*Resolved*, as the opinion of this committee, that the judicial power of the United States, as to controversies between citizens of the same state, claiming lands under grants of different states, extends only to controversies relating to such lands as shall be claimed by two or more persons, under grants of different states."

Res. 4. "*Resolved*, as the opinion of this committee, that nothing in the Constitution now under consideration contained, is to be construed to authorize any suit to be brought against any state, in any manner whatever."

Res. 5. "*Resolved*, as the opinion of this committee, that the judicial power of the United States, in cases in which a state shall be a party, is not to be construed to extend to criminal prosecutions."

Res. 6. "*Resolved*, as the opinion of this committee, that the judicial power of the United States, as to controversies between citizens of different states, is not to be construed to extend to any controversy relating to any real estate not claimed under grants of different states."

Res. 7. "*Resolved*, as the opinion of this committee, that the judicial power of the United States, as to controversies between citizens of the same state, claiming lands under grants of different states, extends only to controversies relating to such lands as shall be claimed by two or more persons, under grants of different states."

Res. 8. "*Resolved*, as the opinion of this committee, that the person aggrieved by any judgment, sentence, or decree of the Supreme Court of the United States, with such exceptions, and under such regulations, as the Congress shall make concerning the same, ought, upon application, to have a commission, to be issued by the President of the United States, to such learned men as he shall nominate, and by and with the advice and consent of the Senate, appoint, not less than seven, authorizing such commissioners, or any seven or more of them, to correct the errors in such judgment, or to review such sentence and decree, as the case may be, and to do justice to the parties in the premises."

Res. 9. "*Resolved*, as the opinion of this committee, that the jurisdiction of the Supreme Court of the United States, or of any other court to be instituted by the Congress, ought not, in any case, to be increased, enlarged, or extended, by any fiction, collusion, or mere suggestion."

MONDAY, July 7, 1788. — The secretary continued reading the 4th and 5th articles without interruption. To the 2d clause of article 6th, Mr. LANSING proposed the following amendments : —

"*Resolved*, as the opinion of this committee, that no treaty ought to operate so as to alter the constitution of any state ; nor ought any commercial treaty to operate so as to abrogate any law of the United States."

To the 3d clause of article 6th, Mr. M. SMITH moved the following addition : —

"*Resolved*, as the opinion of this committee, that all the officers of the

United States ought to be bound, by oath or affirmation, not to infringe the constitutions or rights of the respective states."

After the Constitution had been gone through, Mr. M. SMITH moved for the following amendment to clause 17, of sec. 8, art. 1 : —

" *Resolved*, as the opinion of this committee, that the right of the Congress to exercise exclusive legislation over such district, not exceeding ten miles square, as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, shall not be so exercised as to exempt the inhabitants of such district from paying the same taxes, duties, imposts, and excises, as shall be imposed on the other inhabitants of the state where such district may be, nor shall it be so exercised as to prevent the laws of the state, and all process under those laws, from extending to such district, in all cases of crimes committed without the district, or in cases of contracts made between persons residing within such district and persons residing without it. Nor shall it be so exercised, as to authorize any inhabitant of the said district to bring any suit in any court, which may be established by the Congress within the same, against any citizen or person not an inhabitant of the said district. And it is understood that the stipulations in this Constitution, respecting all essential rights, shall extend as well to this district as to the United States in general. *Resolved*, further, as the opinion of this committee, that the right of exclusive legislation, with respect to such places as may be purchased for the erection of forts, magazines, arsenals, and dock-yards, and other needful buildings, shall not be construed to authorize the Congress to make any law to prevent the laws of the states in which they may lie, from extending to such places in all civil and criminal matters, except as to such persons as shall be in the service of the United States, nor to them with respect to crimes committed without such places."

Mr. LANSING then read, and presented to the committee, a *bill of rights* to be prefixed to the Constitution.

TUESDAY, July 8, 1788. — Convention met, and adjourned without doing business.

WEDNESDAY, July 9, 1788. — Convention met, and adjourned.

THURSDAY, July 10, 1788. — Mr. LANSING submitted a plan of amendments, on a new arrangement, and with material alterations. They are divided into three — 1st, explanatory; 2d, conditional; 3d, recommendatory.

FRIDAY, July 11, 1788. — Mr. JAY moved the following resolutions : —

" *Resolved*, as the opinion of this committee, that the Constitution under consideration ought to be *ratified* by this Convention.

" *Resolved*, further, as the opinion of this committee, that such parts of the said Constitution as may be thought doubtful ought to be explained, and that whatever amendment may be deemed useful, or expedient, ought to be recommended."

Mr. JAY was supported by Mr. Chancellor Livingston and Mr. Chief Justice Morris, and opposed by Mr. Melancton Smith. The debates on this motion continued till Tuesday, the 15th of July; when Mr. SMITH moved, as an amendment, to add to the first resolution proposed by Mr. JAY, so that the same, when amended, should read as follows : —

“ *Resolved*, as the opinion of this committee, that the Constitution under consideration ought to be ratified by this Convention : *upon condition, nevertheless*, That until a convention shall be called and convened for proposing amendments to the said Constitution, the militia of this state will not be continued in service out of this state for a longer term than six weeks, without the consent of the legislature thereof : That the Congress will not make or alter any regulation in this state respecting the times, places, and manner of holding elections for senators or representatives, unless the legislature of this state should neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same ; and that, in those cases, such power will only be exercised until the legislature of this state shall make provision in the premises : That no excise will be imposed on any article of the growth, production, or manufacture of the United States, or any of them, within this state, ardent spirits excepted : And that Congress shall not lay direct taxes within this state, but when the moneys arising from the impost and excise shall be insufficient for the public exigencies ; nor then, until Congress shall first have made a requisition upon this state, to assess, levy, and pay the amount of such requisition, made agreeably to the census fixed in the said Constitution, in such way and manner as the legislature of this state judge best ; but in such case, if the state shall neglect or refuse to pay its proportion pursuant to such requisition, then the Congress may assess and levy this state's proportion, together with interest at the rate of six per centum, per annum, from the time at which the same was required to be paid.”

WEDNESDAY, *July 16, 1788.* — The Honorable Judge HOBART brought forward a motion for *adjournment*. On this motion large debates took place, in which Mr. Hobart, Mr. Duane, Mr. Lansing, Mr. Jay, the Chancellor, Mr. Hamilton, and Mr. Bay, were engaged. The motion was rejected.

Mr. DUANE then brought forward a plan of *ratification*, with certain explanations, and with a list of amendments to be recommended. This was rejected.

Mr. SMITH'S proposition was then resumed, and debated till

SATURDAY, *July 19, 1788*; when Mr. LANSING moved to postpone the several propositions before the house, in order to take into consideration a draft of a conditional ratification, with a *bill of rights* prefixed, and amendments sub-

joined. Debates arose on the motion, and it was carried. The committee then proceeded to consider separately the amendments proposed in this plan of ratification.

WEDNESDAY, *July 23*, 1788.—Mr. JONES moved, that the words *on condition*, in the form of the ratification, should be obliterated, and that the words *in full confidence* should be substituted—which was carried.

For the Affirmative.

Mr. Jay,	Mr. J. Smith,	Mr. P. Livingston,
Mr. R. Morris,	Mr. Jones,	Mr. Hatfield,
Mr. Hobart,	Mr. Schenck,	Mr. Van Cortland,
Mr. Hamilton,	Mr. Lawrence,	Mr. Crane,
Mr. Robt. R. Livingston,	Mr. Carman,	Mr. Sarls,
Mr. Roosevelt,	Mr. Lefferts,	Mr. Platt,
Mr. Duane,	Mr. Vandervoort,	Mr. M. Smith,
Mr. Harrison,	Mr. Bancker,	Mr. Gilbert Livingston
Mr. Low,	Mr. Ryerss,	Mr. DeWitt,
Mr. Scudder,	Mr. L. Morris,	Mr. Williams.
Mr. Havens,		

For the Negative.

Mr. R. Yates,	Mr. Wynkoop,	Mr. Winn,
Mr. Lansing,	Mr. Haring,	Mr. Veeder,
Mr. I. Thompson,	Mr. Woodhull,	Mr. Staring,
Mr. Ten Eyck,	Mr. Wisner,	Mr. Parker,
Mr. Tredwell,	Mr. Wood,	Mr. Baker,
Mr. PRESIDENT,	Mr. Swartwout,	Mr. Hopkins,
Mr. Cantine,	Mr. Akins,	Mr. Van Ness.
Mr. Schoonmaker,	Mr. Harper,	Mr. Bay,
Mr. Clark,	Mr. C. Yates,	Mr. Adgate.
Mr. J. Clinton,	Mr. Frey,	

The committee continued the consideration of the amendments till Thursday; when Mr. LANSING moved to adopt a resolution, that there should be reserved to the state of New York a right to withdraw herself *from the Union* after a certain number of years, unless the amendments proposed should previously be submitted to a general convention.

This motion was negatived.

The committee proceeded in the consideration of the amendments till

FRIDAY, *July 25*, 1788; when, the whole being gone through and amended, the question was put, whether the committee did agree to the same, which was carried in the affirmative.

The committee then rose, and reported.

The report of the committee being considered, the President put the question, whether the Convention did agree to the said report, which was carried in the affirmative.

The Convention then resolved, unanimously, that a *circular letter* be prepared to be laid before the different legislatures of the United States, recommending a general Convention.

SATURDAY, *July 26*, 1788. — The Convention having met, the bill of rights, and form of the ratification of the Constitution, with the amendments, were read, when the *question* being put, whether the same should pass, as agreed to and ratified by the Convention, it was carried in the affirmative, as follows: —

For the Affirmative.

Mr. Jay,	Mr. J. Smith,	Mr. P. Livingston,
Mr. Hobert,	Mr. Jones,	Mr. Hatfield,
Mr. Hamilton,	Mr. Schenck,	Mr. Van Cortland,
Mr. Robt. R. Livingston,	Mr. Lawrence,	Mr. Crane,
Mr. Roosevelt,	Mr. Carman,	Mr. Sarls,
Mr. Duane,	Mr. Lefferts,	Mr. Woodhull,
Mr. Harrison,	Mr. Vandervoort,	Mr. Platt,
Mr. Low,	Mr. Bancker	Mr. M. Smith,
Mr. Scudder,	Mr. Ryerss,	Mr. G. Livingston,
Mr. Havens,	Mr. L. Morris,	Mr. DeWitt.

For the Negative.

Mr. R. Yates,	Mr. Wynkoop,	Mr. Veeder,
Mr. Lansing,	Mr. Haring,	Mr. Staring,
Mr. Outhoudt,	Mr. Wisner,	Mr. Parker,
Mr. J. Thompson,	Mr. Wood,	Mr. Williams,
Mr. Tredwell,	Mr. Swartwout,	Mr. Baker,
Mr. Cantine,	Mr. Akins,	Mr. Hopkins,
Mr. Schoonmaker,	Mr. Harper,	Mr. Van Ness,
Mr. Clark,	Mr. Frey,	Mr. Bay,
Mr. J. Clinton,	Mr. Winn,	Mr. Adgate.

Convention adjourned without day.

THE CIRCULAR LETTER,

from the Convention of the State of New York to the governors of the several states in the Union.

POUGHKEEPSIE, *July 28*, 1788

SIR:

We, the members of the Convention of this state, have deliberately and maturely considered the Constitution proposed for the United States. Several articles in it appear so exceptionable to a majority of us, that nothing but the fullest confidence of obtaining a revision of them by a

general convention, and an invincible reluctance to separating from our sister states, could have prevailed upon a sufficient number to ratify it, without stipulating for previous amendments. We all unite in opinion, that such a revision will be necessary to recommend it to the approbation and support of a numerous body of our constituents.

We observe that amendments have been proposed, and are anxiously desired, by several of the states, as well as by this; and we think it of great importance that effectual measures be immediately taken for calling a convention, to meet at a period not far remote; for we are convinced that the apprehensions and discontents, which those articles occasion, cannot be removed or allayed, unless an act to provide for it be among the first that shall be passed by the new Congress.

As it is essential that an application for the purpose should be made to them by two thirds of the states, we earnestly exhort and request the legislature of your state to take the earliest opportunity of making it. We are persuaded that a similar one will be made by our legislature, at their next session; and we ardently wish and desire that the other states may concur in adopting and promoting the measure.

It cannot be necessary to observe, that no government, however constructed, can operate well, unless it possesses the confidence and goodwill of the body of the people; and as we desire nothing more than that the amendments proposed by this or other states be submitted to the consideration and decision of a general convention, we flatter ourselves that motives of mutual affection and conciliation will conspire with the obvious dictates of sound policy to induce even such of the states as may be content with every article in the Constitution to gratify the reasonable desires of that numerous class of American citizens who are anxious to obtain amendments of some of them.

Our amendments will manifest that none of them originated in local views, as they are such as, if acceded to, must equally affect every state in the Union. Our attachment to our sister states, and the confidence we repose in them, cannot be more forcibly demonstrated than by acceding to a government which many of us think very imperfect, and devolving the power of determining whether that government shall be rendered perpetual in its present form, or altered agreeably to our wishes, and a minority of the states with whom we unite.

We request the favor of your excellency to lay this letter before the legislature of your state; and we are persuaded that your regard for our national harmony and good government will induce you to promote a measure which we are unanimous in thinking very conducive to those interesting objects.

We have the honor to be, with the highest respect, your excellency's most obedient servants.

By the unanimous order of the Convention,

GEORGE CLINTON,
President.

THE
DEBATES
IN
THE CONVENTION
OF THE
STATE OF PENNSYLVANIA,
ON THE
ADOPTION OF THE FEDERAL CONSTITUTION.

PHILADELPHIA, TUESDAY, *November 20, 1787, P. M.*

THIS being the day recommended by the legislature for the meeting of this body, a number of gentlemen delegated thereto met, accordingly, at the state-house, and adjourned to three o'clock, P. M., to-morrow.

WEDNESDAY, *November 21, 1787.*—Sixty of the gentlemen elected to serve in the Convention met.

The returns of the elections held for the city of Philadelphia, and the several counties of this state, were read; by which it appears that the following gentlemen were returned as delegates for the Convention for the said cities and counties respectively, viz. : —

For the city of Philadelphia. George Latimer, Benjamin Rush, Hilary Baker, James Wilson, Thos. M'Kean.

For Philadelphia county. William M'Pherson, John Hunn, George Gray, Samuel Ashmead, Enoch Edwards.

For Bucks county. Henry Wynkoop, John Barclay, Thomas Yardly, Abraham Stout.

For Chester county. Thomas Ball, Anthony Wayne, William Gibbons, Richard Downing, Thomas Cheney, John Hannum.

For Lancaster county. Stephen Chambers, Robert Coleman, Sebastian Graff, John Hubley, Jasper Yeates, John Whitehill.

For York county. Henry Slagle, Thomas Campbell, Thomas Hartley, David Grier, John Black, Benjamin Pedan.

For Cumberland county. John Harris, John Reynolds, Robert Whitehill, Jonathan Hoge.

For Berks county. Nicholas Lutz, John Ludwig, Abraham Lincoln, John Bishop, Joseph Heister.

For North Hampton county. John Arndt, Stephen Balliott, Joseph Horsefield, David Deshler.

For Bedford county. James Martin, Joseph Powell.

For Northumberland county. William Wilson, John Boyd.

For Westmoreland county. William Findley, John Baird, William Todd.

For Washington county. James Marshall, James Edgar, T. Scott, John Nevill.

For Fayette county. Nicholas Breeding, John Smilie.

For Franklin county. Richard Bard, John Allison.

For Montgomery county. Jonathan Roberts, John Richards, Frederick A. Muhlenberg, James Morris.

For Dauphin county. William Brown, Adam Orth.

For Luzerne county. Timothy Pickering.

For Huntingdon county. Benjamin Elliott.

The Convention proceeded to elect a president.

The ballots being counted, it appeared that Frederick Augustus Muhlenberg, Esq., was duly elected.

An invitation to the president and members of the Convention, from the faculty of the University of Pennsylvania, requesting their company at a commencement to be held to-morrow, was read.

Agreed to attend in a body, at ten o'clock to-morrow. Adjourned until nine o'clock, A. M.

THURSDAY, November 22, 1787. — Convention met, and proceeded to the University Hall, attended commencement, and returned to their chamber.

On motion of Mr. WAYNE, seconded by Mr. Whitehill,

A committee was appointed to report rules and regulations for conducting the business of the Convention.

The committee consisted of Benjamin Rush, James Wilson, George Gray, Anthony Wayne, and Robert Whitehill.

Adjourned until half-past nine o'clock to-morrow, A. M.

FRIDAY, November 23, 1787. — Convention met pursuant to adjournment, and proceeded to elect a secretary.

The ballots being taken, it appeared that James Campbell, Esq., was duly elected.

The committee appointed, yesterday, to bring in rules and regulations, made report, and the same being read, was by special order taken up, read by paragraphs, and agreed to as follows: —

1. When the president assumes the chair, the members shall take their seats.

2. At the opening of the Convention of each day, the minutes of the preceding day shall be read, and are then in the power of the Convention

to be corrected; after which any business addressed to the chair may be proceeded to.

3. Every petition, memorial, letter, or other matter of the like kind, read in the Convention, shall be deemed as lying on the table for further consideration, unless any special order be moved thereon.

4. A motion made and seconded shall be repeated by the president. A motion shall be reduced to writing, if the president or any two members require it. A motion may be withdrawn by the member making it, before any decision is had on it.

5. No member speaking shall be interrupted but by a call to order by the president, or by a member through the president.

6. No member to be referred to, in debate, by name.

7. The president himself, or by request, may call to order any member who shall transgress the rules. If the second time, the president may refer to him by name. The Convention may then examine and censure the member's conduct, he being allowed to extenuate or justify.

8. Every member, actually attending the Convention, shall be in his place at the time to which the Convention stands adjourned, or within half an hour thereof.

9. The name of him who makes, and the name of him who seconds, a motion, shall be entered on the minutes.

10. No member shall speak more than twice on a question without leave.

11. Every member of a committee shall attend at the call of his chairman.

12. The yeas and nays may be called and entered on the minutes when any two members require it.

On motion of Mr. M'KEAN, seconded by Mr. Smilie, —

Ordered, That the doors of the Convention be left open during the session.

On motion of Mr. M'KEAN, seconded by Mr. Smilie, —

Ordered, That the Constitution, as proposed by the late federal Convention, be read. It was read accordingly.

Adjourned until ten o'clock to-morrow.

SATURDAY, *November 24*, 1787, A. M. — The Convention met pursuant to adjournment.

On motion of Mr. M'KEAN, seconded by Mr. Hannum, the Constitution, as proposed by the late Convention, was read a second time, together with a letter from the secretary of Congress to the president of this state.

Adjourned until three o'clock on Monday next.

MONDAY, *November 26*, 1787, P. M. — The Convention met pursuant to adjournment.

Mr. M'KEAN. The subject now, Mr. President, comes fully and fairly before us. Our first object must be to ascertain the proper mode of proceeding to obtain a final decision.

We are without precedent to guide us; yet those forms,

observed by other public bodies, so far as they are eligible, may generally be proper for us to adhere to. So far, therefore, as the rules of the legislature of Pennsylvania apply with convenience to our circumstances, I acquiesce in their adoption.

I now think it necessary, sir, to make you a motion — not that I apprehend it can be determined until a full investigation of the subject before us is had. The motion will be, sir, That this Convention do *assent to*, and *ratify*, the Constitution agreed to on the 17th of September last, by the Convention of the United States of America, held at Philadelphia.

Upon this motion being seconded, sir, the consideration of the Constitution will be necessarily drawn on. Every objection that can be suggested against the work will be listened to with attention, answered, and perhaps obviated; and finally, after a full discussion, the ground will be ascertained, on which we are to receive or reject the system now before you. I do not wish this question to be decided to-day; though perhaps it may be determined this day week. I offer you this for the sake of form, and shall hereafter trouble you with another motion, that may bring the particular parts of this Constitution before you, for a regular and satisfactory investigation.

In this motion, Mr. M'KEAN was seconded by Mr. Allison.

Mr. WILSON. The system proposed, by the late Convention, for the government of the United States, is now before you. Of that Convention I had the honor to be a member. As I am the only member of that body who has the honor to be also a member of this, it may be expected that I should prepare the way for the deliberations of this assembly, by unfolding the difficulties which the late Convention were obliged to encounter; by pointing out the end which they proposed to accomplish; and by tracing the general principles which they have adopted for the accomplishment of that end.

To form a good system of government for a single city or state, however limited as to territory, or inconsiderable as to numbers, has been thought to require the strongest efforts of human genius. With what conscious diffidence, then, must the members of the Convention have revolved in their

minds the immense undertaking which was before them. Their views could not be confined to a small or a single community, but were expanded to a great number of states; several of which contain an extent of territory, and resources of population, equal to those of some of the most respectable kingdoms on the other side of the Atlantic. Nor were even these the only objects to be comprehended within their deliberations. Numerous states yet unformed, myriads of the human race, who will inhabit regions hitherto uncultivated, were to be affected by the result of their proceedings. It was necessary, therefore, to form their calculations on a scale commensurate to a large portion of the globe.

For my own part, I have been often lost in astonishment at the vastness of the prospect before us. To open the navigation of a single river was lately thought, in Europe, an enterprise equal to imperial glory. But could the commercial scenes of the Scheldt be compared with those that, under a good government, will be exhibited on the Hudson, the Delaware, the Potomac, and the numerous other rivers, that water and are intended to enrich the dominions of the United States?

The difficulty of the business was equal to its magnitude. No small share of wisdom and address is requisite to combine and reconcile the jarring interests that prevail, or seem to prevail, in a single community. The United States contain already thirteen governments mutually independent. Those governments present to the Atlantic a front of fifteen hundred miles in extent. Their soil, their climates, their productions, their dimensions, their numbers, are different. In many instances, a difference, and even an opposition, subsists among their interests; and a difference, and even an opposition, is imagined to subsist in many more. An apparent interest produces the same attachment as a real one, and is often pursued with no less perseverance and vigor. When all these circumstances are seen, and attentively considered, will any member of this honorable body be surprised that such a diversity of things produced a proportionate diversity of sentiment? Will he be surprised that such a diversity of sentiment rendered a spirit of mutual forbearance and conciliation indispensably necessary to the success of the great work? And will he be surprised that mutual concessions and sacrifices were the consequences of

mutual forbearance and conciliation? When the springs of opposition were so numerous and strong, and poured forth their waters in courses so varying, need we be surprised that the stream formed by their conjunction was impelled in a direction somewhat different from that which each of them would have taken separately?

I have reason to think that a difficulty arose in the minds of some members of the Convention from another consideration — their ideas of the temper and disposition of the people for whom the Constitution is proposed. The citizens of the United States, however different in some other respects, are well known to agree in one strongly-marked feature of their character — a warm and keen sense of freedom and independence. This sense has been heightened by the glorious result of their late struggle against all the efforts of one of the most powerful nations of Europe. It was apprehended, I believe, by some, that a people so highly spirited would ill brook the restraints of an efficient government. I confess that this consideration did not influence my conduct. I knew my constituents to be high-spirited, but I knew them also to possess sound sense. I knew that in event they would be best pleased with that system of government which would be best, to promote their freedom and happiness. I have also often revolved this subject in my mind. I have supposed one of my constituents to ask me why I gave such a vote on a particular question. I have always thought it would be a satisfactory answer to say, Because I judged, upon the best consideration I could give, that such a vote was right. I have thought that it would be a very poor compliment to my constituents to say, that, in my opinion, such a vote would have been proper, but that I supposed a contrary one would be more agreeable to those who sent me to the Convention. I could not, even in idea, expose myself to such a retort, as, upon the last answer, might have been justly made to me — Pray, sir, what reasons have you for supposing that a right vote would displease your constituents? Is this the proper return for the high confidence they have placed in you? If they have given cause for such a surmise, it was by choosing a representative who could entertain such an opinion of them. I was under no apprehension that the good people of this state would behold with displeasure the brightness of the rays of dele-

gated power, when it only proved the superior splendor of the luminary of which those rays were only the reflection.

A very important difficulty arose from comparing the extent of the country to be governed with the kind of government which it would be proper to establish in it. It has been an opinion, countenanced by high authority, "that the natural property of small states is to be governed as a republic; of middling ones, to be subject to a monarchy; and of large empires, to be swayed by a despotic prince;—and that the consequence is, that, in order to preserve the principles of the established government, the state must be supported in the extent it has acquired; and that the spirit of the state will alter in proportion as it extends or contracts its limits." (*Montesquieu*, b. 8, c. 20.) This opinion seems to be supported, rather than contradicted, by the history of the governments in the old world. Here, then, the difficulty appeared in full view. On one hand, the United States contain an immense extent of territory; and, according to the foregoing opinion, a despotic government is best adapted to that extent. On the other hand, it was well known, that, however the citizens of the United States might with pleasure submit to the legitimate restraints of a republican constitution, they would reject with indignation the fetters of despotism. What, then, was to be done? The idea of a confederate republic presented itself. This kind of constitution has been thought to have "all the internal advantages of a republican together with the external force of a monarchical government." (*Mont.* b. 9, c. 1, 2. *Paley*, 199, 202.)

Its description is "a convention, by which several states agree to become members of a larger one, which they intend to establish. It is a kind of assemblage of societies that constitute a *new one*, capable of increasing by means of further association."—(*Montesquieu*, b. 9, c. 1.) The *expanding* quality of such government is peculiarly fitted for the United States, the greatest part of whose territory is yet uncultivated.

But while this form of government enabled us to surmount the difficulty last mentioned, it conducted us to another, of which I am now to take notice. It left us almost without precedent or guide, and, consequently, without the benefit of that instruction which, in many cases, may be derived from the constitution, and history, and experience, of other

nations. Several associations have frequently been called by the name of *confederate states*, which have not, in propriety of language, deserved it. The Swiss cantons are connected only by alliances. The United Netherlands are, indeed, an assemblage of societies ; but this assemblage constitutes *no new one*, and therefore it does not correspond with the full definition of a confederate republic. The Germanic body is composed of such disproportioned and discordant materials, and its structure is so intricate and complex, that little useful knowledge can be drawn from it. Ancient history discloses, and barely discloses, to our view, some confederate republics — the Achæan league, the Lycian confederacy, and the Amphictyonic council. But the facts recorded concerning their constitutions are so few and general, and their histories are so unmarked and defective, that no satisfactory information can be collected from them concerning many particular circumstances, from an accurate discernment and comparison of which, alone, legitimate and practical inferences can be made from one constitution to another. Besides, the situation and dimensions of those confederacies, and the state of society, manners, and habits, in them, were so different from those of the United States, that the most correct descriptions could have supplied but a very small fund of applicable remark. Thus, in forming this system, we were deprived of many advantages which the history and experience of other ages and other countries would, in other cases, have afforded us.

Permit me to add, in this place, that the science even of government itself seems yet to be almost in its state of infancy. Governments, in general, have been the result of force, of fraud, and accident. After a period of six thousand years has elapsed since the creation, the United States exhibit to the world the first instance, as far as we can learn, of a nation, unattacked by external force, unconvulsed by domestic insurrections, assembling voluntarily, deliberating fully, and deciding calmly, concerning that system of government under which they would wish that they and their posterity should live. The ancients, so enlightened on other subjects, were very uninformed with regard to this. They seem scarcely to have had any idea of any other kinds of governments than the three simple forms designed by the epithets *monarchical*, *aristocratical*, and *democratical*. I know

that much and pleasing ingenuity has been exerted, in modern times, in drawing entertaining parallels between some of the ancient constitutions and some of the mixed governments that have since existed in Europe. But I much suspect that, on strict examination, the instances of resemblance will be found to be few and weak ; to be suggested by the improvements which, in subsequent ages, have been made in government, and not to be drawn immediately from the ancient constitutions themselves, as they were intended and understood by those who framed them. To illustrate this, a similar observation may be made on another subject. Admiring critics have fancied that they have discovered in their favorite *Homer* the seeds of all the improvements in philosophy and in the sciences made since his time. What induces me to be of this opinion is, that *Tacitus*—the profound politician Tacitus—who lived towards the latter end of those ages which are now denominated *ancient*, who undoubtedly had studied the constitutions of all the states and kingdoms known before and in his time, and who certainly was qualified, in an uncommon degree, for understanding the full force and operation of each of them, considers, after all he had known and read, a mixed government, composed of the three simple forms, as a thing rather to be wished than expected. And he thinks that, if such a government could even be instituted, its duration could not be long. One thing is very certain—that the doctrine of representation in government was altogether unknown to the ancients. Now, the knowledge and practice of this doctrine is, in my opinion, essential to every system that can possess the qualities of freedom, wisdom, and energy.

It is worthy of remark, and the remark may, perhaps, excite some surprise, that representation of the people is not, even at this day, the sole principle of any government in Europe. Great Britain boasts—and she may well boast—of the improvement she has made in politics by the admission of representation ; for the improvement is important as far as it goes ; but it by no means goes far enough. Is the executive power of Great Britain founded on representation ? This is not pretended. Before the revolution, many of the kings claimed to reign by divine right, and others by hereditary right ; and even at the revolution, nothing further was effected or attempted than the recognition of certain parts of

an original contract, (*Blackstone*, 233,) supposed, at some former remote period, to have been made between the king and the people. A contract seems to exclude, rather than to imply, delegated power. The judges of Great Britain are appointed by the crown. The judicial authority, therefore, does not depend upon representation, even in its most remote degree. Does representation prevail in the legislative department of the British government? Even here it does not predominate, though it may serve as a check. The legislature consists of three branches — the king, the lords, and the commons. Of these, only the latter are supposed by the constitution to represent the authority of the people. This short analysis clearly shows to what a narrow corner of the British constitution the principle of representation is confined. I believe it does not extend farther, if so far, in any other government in Europe. For the American states were reserved the glory and the happiness of diffusing this vital principle throughout the constituent parts of government. Representation is the chain of communication between the people and those to whom they have committed the exercise of the powers of government. This chain may consist of one or more links, but in all cases it should be sufficiently strong and discernible.

To be left without guide or precedent was not the only difficulty in which the Convention were involved, by proposing to their constituents a plan of a confederate republic. They found themselves embarrassed with another, of peculiar delicacy and importance. I mean that of drawing a proper line between the national government and the governments of the several states. It was easy to discover a proper and satisfactory principle on the subject. Whatever object of government is confined, in its operation and effects, within the bounds of a particular state, should be considered as belonging to the government of that state; whatever object of government extends, in its operation or effects, beyond the bounds of a particular state, should be considered as belonging to the government of the United States. But though this principle be sound and satisfactory, its application to particular cases would be accompanied with much difficulty, because, in its application, room must be allowed for great discretionary latitude of construction of the principle. In order to lessen or remove the difficulty arising

from discretionary construction on this subject, an enumeration of particular instances, in which the application of the principle ought to take place, has been attempted with much industry and care. It is only in mathematical science that a line can be described with mathematical precision. But I flatter myself that, upon the strictest investigation, the enumeration will be found to be safe and unexceptionable, and accurate, too, in as great a degree as accuracy can be expected in a subject of this nature. Particulars under this head will be more properly explained, when we descend to the minute view of the enumeration which is made in the proposed Constitution.

After all, it will be necessary that, on a subject so peculiarly delicate as this, much prudence, much candor, much moderation, and much liberality, should be exercised and displayed both by the federal government and by the governments of the several states. It is to be hoped that those virtues in government will be exercised and displayed, when we consider that the powers of the federal government and those of the state governments are drawn from sources equally pure. If a difference can be discovered between them, it is in favor of the federal government, because that government is founded on a representation of the *whole* Union; whereas the government of any particular state is founded only on the representation of a part, inconsiderable when compared with the whole. Is it not more reasonable to suppose that the counsels of the whole will embrace the interest of every part, than that the counsels of any part will embrace the interests of the whole?

I intend not, sir, by this description of the difficulties with which the Convention were surrounded, to magnify their skill or their merit in surmounting them, or to insinuate that any predicament in which the Convention stood should prevent the closest and most cautious scrutiny into the performance which they have exhibited to their constituents and to the world. My intention is of far other and higher aim—to evince, by the conflicts and difficulties which must arise from the many and powerful causes which I have enumerated, that it is hopeless and impracticable to form a constitution which, in every part, will be acceptable to every citizen, or even to every government, in the United States; and that all which can be expected is, to form such a con-

stitution as, upon the whole, is the best that can possibly be obtained. Man and perfection!—a state and perfection!—an assemblage of states and perfection! Can we reasonably expect, however ardently we may wish, to behold the glorious union?

I can well recollect, though I believe I cannot convey to others, the impression which, on many occasions, was made by the difficulties which surrounded and pressed the Convention. The great undertaking sometimes seemed to be at a stand; at other times, its motion seemed to be retrograde. At the conclusion, however, of our work, many of the members expressed their astonishment at the success with which it terminated.

Having enumerated some of the difficulties which the Convention were obliged to encounter in the course of their proceedings, I shall next point out the end which they proposed to accomplish. Our wants, our talents, our affections, our passions, all tell us that we were made for a state of society. But a state of society could not be supported long or happily without some civil restraint. It is true that, in a state of nature, any one individual may act uncontrolled by others; but it is equally true that, in such a state, every other individual may act uncontrolled by him. Amidst this universal independence, the dissensions and animosities between interfering members of the society would be numerous and ungovernable. The consequence would be, that each member, in such a natural state, would enjoy less liberty, and suffer more interruption, than he would in a regulated society. Hence the universal introduction of governments of some kind or other into the social state. The liberty of every member is increased by this introduction; for each gains more by the limitation of the freedom of every other member, than he loses by the limitation of his own. The result is, that civil government is necessary to the perfection and happiness of man. In forming this government, and carrying it into execution, it is *essential* that the *interest* and *authority* of the whole community should be binding in every part of it.

The foregoing principles and conclusions are generally admitted to be just and sound with regard to the nature and formation of single governments, and the duty of submission to them. In some cases, they will apply, with much propriety and force, to states already formed. The advantages

and necessity of civil government among individuals in society, are not greater or stronger than, in some situations and circumstances, are the advantages and necessity of a federal government among states. A natural and very important question now presents itself—Is such the situation, are such the circumstances, of the United States? A proper answer to this question will unfold some very interesting truths.

The United States may adopt any one of four different systems. They may become consolidated into one government, in which the separate existence of the states shall be entirely absolved. They may reject any plan of union or association, and act as separate and unconnected states. They may form two or more confederacies. They may unite in one federal republic. Which of these systems ought to have been formed by the Convention? To support, with vigor, a single government over the whole extent of the United States, would demand a system of the most unqualified and the most unremitted despotism. Such a number of separate states, contiguous in situation, unconnected and disunited in government, would be, at one time, the prey of foreign force, foreign influence, and foreign intrigue; at another, the victims of mutual rage, rancor, and revenge. Neither of these systems found advocates in the late Convention. I presume they will not find advocates in this. Would it be proper to divide the United States into two or more confederacies? It will not be unadvisable to take a more minute survey of this subject. Some aspects under which it may be viewed are far from being, at first sight, uninviting. Two or more confederacies would be each more compact and more manageable than a single one extending over the same territory. By dividing the United States into two or more confederacies, the great collision of interests apparently or really different and contrary in the *whole extent* of their dominion, would be broken, and, in a great measure, disappear, in the several parts. But these advantages, which are discovered from certain points of view, are greatly overbalanced by inconveniences that will appear on a more accurate examination. Animosities, and perhaps wars, would arise from assigning the extent, the limits, and the rights, of the different confederacies. The expenses of governing would be multiplied by the number of federal govern-

ments. The danger resulting from foreign influence and mutual dissensions, would not, perhaps, be less great and alarming in the instance of different confederacies, than in the instance of different though more numerous unassociated states.

These observations, and many others that might be made on the subject, will be sufficient to evince that a division of the United States into a number of separate confederacies would probably be an unsatisfactory and an unsuccessful experiment. The remaining system which the American states may adopt, is a union of them under one confederate republic. It will not be necessary to employ much time, or many arguments, to show that this is the most eligible system that can be proposed. By adopting this system, the vigor and decision of a wide-spreading monarchy may be joined to the freedom and beneficence of a contracted republic. The extent of territory, the diversity of climate and soil, the number, and greatness, and connection, of lakes and rivers with which the United States are intersected and almost surrounded,—all indicate an enlarged government to be fit and advantageous for them. The principles and dispositions of their citizens indicate that, in this government, liberty shall reign triumphant. Such, indeed, have been the general opinions and wishes entertained since the era of independence. If those opinions and wishes are as well founded as they have been general, the late Convention were justified in proposing to their constituents *one* confederate republic, as the best system of a national government for the United States.

In forming this system, it was proper to give minute attention to the interest of all the parts ; but there was a duty of still higher import—to feel and to show a predominating regard to the superior interests of the whole. If this great principle had not prevailed, the plan before us would never have made its appearance. The same principle that was so necessary in forming it, is equally necessary in our deliberations, whether we should reject or ratify it.

I make these observations with a design to prove and illustrate this great and important truth—that, in our decisions on the work of the late Convention, we should not limit our views and regards to the state of Pennsylvania. The aim of the Convention was to form a system of good

and efficient government, on the more extensive scale of the United States. In this, and in every other instance, the work should be judged with the same spirit with which it was performed. A principle of duty, as well as candor, demands this.

We have remarked that civil government is necessary to the perfection of society; we now remark that civil liberty is necessary to the perfection of civil government. Civil liberty is natural liberty itself, divested of only that part which, placed in the government, produces more good and happiness to the community than if it had remained in the individual. Hence it follows that civil liberty, while it resigns a part of natural liberty, retains the free and generous exercise of all the human faculties, so far as it is compatible with the public welfare.

In considering and developing the nature and end of the system before us, it is necessary to mention another kind of liberty, which has not yet, as far as I know, received a name. I shall distinguish it by the appellation of *federal liberty*. When a single government is instituted, the individuals of which it is composed surrender to it a part of their natural independence, which they before enjoyed as men. When a confederate republic is instituted, the communities of which it is composed surrender to it a part of their political independence, which they before enjoyed as states. The principles which directed, in the former case, what part of the natural liberty of the man ought to be given up, and what part ought to be retained, will give similar directions in the latter case. The states should resign to the national government that part, and that part only, of their political liberty, which, placed in that government, will produce more good to the whole than if it had remained in the several states. While they resign this part of their political liberty, they retain the free and generous exercise of all their other faculties, as states, so far as it is compatible with the welfare of the general and superintending confederacy.

Since *states*, as well as *citizens*, are represented in the Constitution before us, and form the objects on which that Constitution is proposed to operate, it was necessary to notice and define *federal* as well as *civil* liberty.

These general reflections have been made in order to introduce, with more propriety and advantage, a practical

illustration of the end proposed to be accomplished by the late Convention.

It has been too well known—it has been too severely felt—that the present Confederation is inadequate to the government, and to the exigencies, of the United States. The great struggle for Liberty in this country, should it be unsuccessful, will probably be the last one which she will have for her existence and prosperity in any part of the globe. And it must be confessed that this struggle has, in some of the stages of its progress, been attended with symptoms that foreboded no fortunate issue. To the iron hand of Tyranny, which was lifted up against her, she manifested, indeed, an intrepid superiority. She broke in pieces the fetters which were forged for her, and showed that she was unassailable by force. But she was environed with dangers of another kind, and springing from a very different source. While she kept her eye steadily fixed on the efforts of oppression, licentiousness was secretly undermining the rock on which she stood.

Need I call to your remembrance the *contrasted* scenes of which we have been witnesses? On the glorious conclusion of our conflict with Britain, what high expectations were formed concerning us by others! What high expectations did we form concerning ourselves! Have those expectations been realized? No. What has been the cause? Did our citizens lose their perseverance and magnanimity? No. Did they become insensible of resentment and indignation at any high-handed attempt that might have been made to injure or enslave them? No. What, then, has been the cause? The truth is, we dreaded danger only on one side: this we manfully repelled. But, on another side, danger, not less formidable but more insidious, stole in upon us; and our unsuspicious tempers were not sufficiently attentive either to its approach or to its operations. Those whom foreign strength could not overpower, have well nigh become the victims of internal anarchy.

If we become a little more particular, we shall find that the foregoing representation is by no means exaggerated. When we had baffled all the menaces of foreign power, we neglected to establish among ourselves a government that would insure domestic vigor and stability. What was the consequence? The commencement of peace was the con-

mencement of every disgrace and distress that could befall a people in a peaceful state. Devoid of *national power*, we could not prohibit the extravagance of our importations, nor could we derive a revenue from their excess. Devoid of *national importance*, we could not procure, for our exports, a tolerable sale at foreign markets. Devoid of *national credit*, we saw our public securities melt in the hands of the holders, like snow before the sun. Devoid of *national dignity*, we could not, in some instances, perform our treaties, on our part; and, in other instances, we could neither obtain nor compel the performance of them, on the part of others. Devoid of *national energy*, we could not carry into execution our own resolutions, decisions, or laws.

Shall I become more particular still? The tedious detail would disgust me. The years of languor are now over. We have felt the dishonor with which we have been covered — we have seen the destruction with which we have been threatened. We have penetrated to the causes of both, and when we have once discovered them, we have begun to search for the means of removing them. For the confirmation of these remarks, I need not appeal to an enumeration of facts. The proceedings of Congress, and of the several states, are replete with them. They all point out the weakness and insufficiency as the cause, and an *efficient* general government as the only cure, of our political distempers.

Under these impressions, and with these views, was the late Convention appointed; and under these impressions, and with these views, the late Convention met.

We now see the great end which they proposed to accomplish. It was to frame, for the consideration of their constituents, one federal and national constitution — a constitution that would produce the advantages of good, and prevent the inconveniences of bad government — a constitution whose beneficence and energy would pervade the whole Union, and bind and embrace the interests of every part — a constitution that would insure peace, freedom, and happiness, to the states and people of America.

We are now naturally led to examine the means by which they proposed to accomplish this end. This opens more particularly to our view the discussion before us. But, previously to our entering upon it, it will not be improper to state some general and leading principles of govern-

ment, which will receive particular application in the course of our investigations.

There necessarily exists, in every government, a power from which there is no appeal, and which, for that reason, may be termed supreme, absolute, and uncontrollable. Where does this power reside? To this question writers on different governments will give different answers. Sir William Blackstone will tell you, that in Britain the power is lodged in the British Parliament; that the Parliament may alter the form of the government; and that its power is absolute, without control. The idea of a constitution, limiting and superintending the operations of legislative authority, seems not to have been accurately understood in Britain. There are, at least, no traces of practice conformable to such a principle. The British constitution is just what the British Parliament pleases. When the Parliament transferred legislative authority to Henry VIII., the act transferring could not, in the strict acceptation of the term, be called unconstitutional.

To control the power and conduct of the legislature, by an overruling constitution, was an improvement in the science and practice of government reserved to the American states.

Perhaps some politician, who has not considered with sufficient accuracy our political systems, would answer that, in our governments, the supreme power was vested in the constitutions. This opinion approaches a step nearer to the truth, but does not reach it. The truth is, that, in our governments, the supreme, absolute, and uncontrollable power *remains* in the people. As our constitutions are superior to our legislatures, so the people are superior to our constitutions. Indeed, the superiority, in this last instance, is much greater; for the people possess over our constitutions control in *act*, as well as right.

The consequence is, that the people may change the constitutions whenever and however they please. This is a right of which no positive institution can ever deprive them.

These important truths, sir, are far from being merely speculative. We, at this moment, speak and deliberate under their immediate and benign influence. To the operation of these truths we are to ascribe the scene, hitherto unparalleled, which America now exhibits to the

world — a gentle, a peaceful, a voluntary, and a deliberate transition from one constitution of government to another. In other parts of the world, the idea of revolutions in government is, by a mournful and an indissoluble association, connected with the idea of wars, and all the calamities attendant on wars. But happy experience teaches us to view such revolutions in a very different light — to consider them only as progressive steps in improving the knowledge of government, and increasing the happiness of society and mankind.

Oft have I marked, with silent pleasure^a and admiration, the force and prevalence, through the United States, of the principle that the supreme power resides in the people, and that they never part with it. It may be called the *panacea* in politics. There can be no disorder in the community but may here receive a radical cure. If the error be in the legislature, it may be corrected by the constitution; if in the constitution, it may be corrected by the people. There is a remedy, therefore, for every distemper in government, if the people are not wanting to themselves; if they are wanting to themselves, there is no remedy. From their power, as we have seen, there is no appeal; of their error there is no superior principle of correction.

There are three simple species of government — monarchy, where the supreme power is in a single person; aristocracy, where the supreme power is in a select assembly, the members of which either fill up, by election, the vacancies in their own body, or succeed to their places in it by inheritance, property, or in respect of some *personal* right or qualification; a republic or democracy, where the people at large *retain* the supreme power, and act either collectively or by representation.

Each of these species of government has its advantages and disadvantages.

The advantages of a *monarchy* are, strength, despatch, secrecy, unity of counsel. Its disadvantages are, tyranny, expense, ignorance of the situation and wants of the people, insecurity, unnecessary wars, evils attending elections or successions.

The advantages of *aristocracy* are, wisdom, arising from experience and education. Its disadvantages are, dissensions among themselves, oppression to the lower orders.

The advantages of *democracy* are, liberty, equality, cautious and salutary laws, public spirit, frugality, peace, opportunities of exciting and producing abilities of the best citizens. Its disadvantages are, dissensions, the delay and disclosure of public counsels, the imbecility of public measures, retarded by the necessity of a numerous consent.

A government may be composed of two or more of the simple forms above mentioned. Such is the British government. It would be an improper government for the United States, because it is inadequate to such an extent of territory, and because it is suited to an establishment of different orders of men. A more minute comparison between some parts of the British constitution, and some parts of the plan before us, may perhaps find a proper place in a subsequent period of our business.

What is the nature and kind of that government which has been proposed for the United States by the late Convention? In its principle, it is purely democratical. But that principle is applied in different forms, in order to obtain the advantages, and exclude the inconveniences, of the simple modes of government.

If we take an extended and accurate view of it, we shall find the streams of power running in different directions, in different dimensions, and at different heights—watering, adorning, and fertilizing, the fields and meadows through which their courses are led; but if we trace them, we shall discover that they all originally flow from one abundant fountain.

In this Constitution, *all authority is derived from the people.*

Fit occasions will hereafter offer for particular remarks on the different parts of the plan. I have now to ask pardon of the house for detaining them so long.

WEDNESDAY, October 28, 1787, A. M. — Mr. WILSON. This will be a proper time for making an observation or two on what may be called the preamble to this Constitution. I had occasion, on a former day, to mention that the leading principle in the politics, and that which pervades the American constitutions, is, that the supreme power resides in the people. This Constitution, Mr. President, opens with a solemn and practical recognition of that principle: — “We, the *people of the United States*, in order to form a more perfect union, establish justice, &c., *do ordain and establish this Constitution for the United States of America.*” It is

announced in *their* name—it receives its political existence from *their* authority: they ordain and establish. What is the necessary consequence? Those who ordain and establish have the power, if they think proper, to repeal and annul. A proper attention to this principle may, perhaps, give ease to the minds of some who have heard much concerning the necessity of a bill of rights.

Its establishment, I apprehend, has more force than a volume written on the subject. It renders this truth evident—that the people have a right to do what they please with regard to the government. I confess I feel a kind of pride in considering the striking difference between the foundation on which the liberties of this country are declared to stand in this Constitution, and the footing on which the liberties of England are said to be placed. The Magna Charta of England is an instrument of high value to the people of that country. But, Mr. President, from what source does that instrument derive the liberties of the inhabitants of that kingdom? Let it speak for itself. The king says, “*We have given and granted* to all archbishops, bishops, abbots, priors, earls, barons, and to all the freemen of this our realm, these liberties following, to be kept in our kingdom of England forever.” When this was assumed as the leading principle of that government, it was no wonder that the people were anxious to obtain bills of rights, and to take every opportunity of enlarging and securing their liberties. But here, sir, the fee-simple remains in the people at large, and by this Constitution they do not part with it.

I am called upon to give a reason why the Convention omitted to add a bill of rights to the work before you. I confess, sir, I did think that, in point of propriety, the honorable gentleman ought first to have furnished some reasons to show such an addition to be necessary; it is natural to prove the affirmative of a proposition; and, if he had established the propriety of this addition, he might then have asked why it was not made.

I cannot say, Mr. President, what were the reasons of every member of that Convention for not adding a bill of rights. I believe the truth is, that such an idea never entered the mind of many of them. I do not recollect to have heard the subject mentioned till within about three days of the time of our rising; and even then, there was no direct

motion offered for any thing of the kind. I may be mistaken in this; but as far as my memory serves me, I believe it was the case. A proposition to adopt a measure that would have supposed that we were throwing into the general government every power not expressly reserved by the people, would have been spurned at, in that house, with the greatest indignation. Even in a single government, if the powers of the people rest on the same establishment as is expressed in this Constitution, a bill of rights is by no means a necessary measure. In a government possessed of enumerated powers, such a measure would be not only unnecessary, but preposterous and dangerous. Whence comes this notion, that in the United States there is no security without a bill of rights? Have the citizens of South Carolina no security for their liberties? They have no bill of rights. Are the citizens on the eastern side of the Delaware less free, or less secured in their liberties, than those on the western side? The state of New Jersey has no bill of rights. The state of New York has no bill of rights. The states of Connecticut and Rhode Island have no bill of rights. I know not whether I have exactly enumerated the states who have not thought it necessary to add *a bill of rights* to their constitutions; but this enumeration, sir, will serve to show by experience, as well as principle, that, even in single governments, a bill of rights is not an essential or necessary measure. But in a government consisting of enumerated powers, such as is proposed for the United States, a bill of rights would not only be unnecessary, but, in my humble judgment, highly imprudent. In all societies, there are many powers and rights which cannot be particularly enumerated. A bill of rights annexed to a constitution is *an enumeration of the powers* reserved. If we attempt an enumeration, every thing that is not enumerated is presumed to be given. The consequence is, that an imperfect enumeration would throw all implied power into the scale of the government, and the rights of the people would be rendered incomplete. On the other hand, an imperfect enumeration of the powers of government reserves all implied power to the people; and by that means the constitution becomes incomplete. But of the two, it is much safer to run the risk on the side of the constitution; for an omission in the enumeration of the powers of government is neither so dangerous nor impor-

tant as an omission in the enumeration of the rights of the people.

Mr. President, as we are drawn into this subject, I beg leave to pursue its history a little farther. The doctrine and practice of declarations of rights have been borrowed from the conduct of the people of England on some remarkable occasions; but the principles and maxims, on which their government is constituted, are widely different from those of ours. I have already stated the language of Magna Charta. After repeated confirmations of that instrument, and after violations of it repeated equally often, the next step taken in this business was, when the petition of rights was presented to Charles I.

It concludes in this manner: "All of which they most humbly *pray* to be allowed, as their rights and liberties, according to the laws and statutes of this realm." (*8th Par. Hist.* 150.) One of the most material statutes of the realm was Magna Charta; so that we find they continue upon the old ground, as to the foundation on which they rest their liberties. It was not till the era of the revolution that the two houses assume a higher tone, and "*demand* and insist upon all the premises as their undoubted rights and liberties." (*Par. Deb.* 261.) But when the whole transaction is considered, we shall find that those rights and liberties are claimed only on the foundation of an original contract, supposed to have been made, at some former period, between the king and the people. (*1 Blackstone*, 233.)

But, in this Constitution, the citizens of the United States appear dispensing a part of their original power in what manner and what proportion they think fit. They never part with the whole; and they retain the right of recalling what they part with. When, therefore, they possess, as I have already mentioned, the fee-simple of authority, why should they have recourse to the minute and subordinate remedies, which can be necessary only to those who pass the fee, and reserve only a rent-charge?

To every suggestion concerning a bill of rights, the citizens of the United States may always say, WE reserve the right to do what we please.

I concur most sincerely with the honorable gentleman who was last up in one sentiment — that if our liberties will be insecure under this system of government, it will become our

duty not to adopt, but to reject it. On the contrary, if it will secure the liberties of the citizens of America, — if it will not only secure their liberties, but procure them happiness, — it becomes our duty, on the other hand, to assent to and ratify it. With a view to conduct us safely and gradually to the determination of that important question, I shall beg leave to notice some of the objections that have fallen from the honorable gentleman from Cumberland, (Whitehill.) But, before I proceed, permit me to make one general remark. Liberty has a formidable enemy on each hand; on one there is tyranny, on the other licentiousness. In order to guard against the latter, proper powers ought to be given to government: in order to guard against the former, those powers ought to be properly distributed. It has been mentioned, and attempts have been made to establish the position, that the adoption of this Constitution will necessarily be followed by the annihilation of all the state governments. If this was a necessary consequence, the objection would operate in my mind with exceeding great force. But, sir, I think the inference is rather unnatural, that a government will produce the annihilation of others, upon the very existence of which its own existence depends. Let us, sir, examine this Constitution, and mark its proportions and arrangements. It is composed of three great constituent parts — the legislative department, the executive department, and the judicial department. The legislative department is subdivided into two branches — the House of Representatives and the Senate. Can there be a House of Representatives in the general government, after the state governments are annihilated? Care is taken to express the character of the electors in such a manner, that even the popular branch of the general government cannot exist unless the governments of the states continue in existence.

How do I prove this? By the regulation that is made concerning the important subject of giving suffrage. Article 1, section 2: "And the electors in each state shall have the qualifications for electors of the most numerous branch of the state legislature." Now, sir, in order to know who are qualified to be electors of the House of Representatives, we are to inquire who are qualified to be electors of the legislature of each state. If there be no legislature in the states, there can be no electors of them: if there be no such elec-

tors, there is no criterion to know who are qualified to elect members of the House of Representatives. By this short, plain deduction, the existence of state legislatures is proved to be essential to the existence of the general government.

Let us proceed now to the second branch of the legislative department. In the system before you, the senators, sir, — those tyrants that are to devour the legislatures of the states, — are to be chosen by the state legislatures themselves. Need any thing more be said on this subject? So far is the principle of each state's retaining the power of self-preservation from being weakened or endangered by the general government, that the Convention went further, perhaps, than was strictly proper, in order to secure it; for, in this second branch of the legislature, each state, without regard to its importance, is entitled to an equal vote. And in the articles respecting amendments of this Constitution, it is provided "That no state, without its consent, shall be deprived of its equal suffrage in the Senate."

Does it appear, then, that provision for the continuance of the state governments was neglected, in framing this Constitution? On the contrary, it was a favorite object in the Convention to secure them.

The President of the United States is to be chosen by electors appointed in the different states, in such manner as the legislature shall direct. Unless there be legislatures to appoint electors, the President cannot be chosen: the idea, therefore, of the existing government of the states, is presupposed in the very mode of constituting the legislative and the executive departments of the general government. The same principle will apply to the judicial department. The judges are to be nominated by the President, and appointed by him, with the advice and consent of the Senate. This shows that the judges cannot exist without the President and Senate. I have already shown that the President and Senate cannot exist without the existence of the state legislatures. Have I misstated any thing? Is not the evidence indisputable, that the state governments will be preserved, or that the general government must tumble amidst their ruins? It is true, indeed, sir, although it presupposes the existence of state governments, yet this Constitution does not suppose them to be the sole power to be respected.

In the Articles of Confederation, the people are unknown,

but in this plan they are represented; and in one of the branches of the legislature, they are represented immediately by persons of their own choice.

I hope these observations on the nature and formation of this system are seen in their full force; many of them were so seen by some gentlemen of the late Convention. After all this, could it have been expected that assertions such as have been hazarded on this floor would have been made — “that it was the business of their deliberations to destroy the state governments; that they employed four months to accomplish this object; and that such was their intentions”? That honorable gentleman may be better qualified to judge of their intentions than themselves. I know my own; and as to those of the other members, I believe that they have been very improperly and unwarrantably represented. Intended to destroy! Where did *he* obtain his information? Let the tree be judged of by its fruit.

Mr. President, the only proof that is attempted to be drawn from the work itself, is that which has been urged from the fourth section of the first article. I will read it: “The times, places, and manner, of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.”

And is this a proof that it was intended to carry on this government after the state governments should be dissolved and abrogated? This clause is not only a proper, but necessary one. I have already shown what pains have been taken in the Convention to secure the preservation of the state governments. I hope, sir, that it was no crime to sow the seed of self-preservation in the federal government; without this clause, it would not possess self-preserving power. By this clause, the times, places, and manner of holding elections, shall be prescribed in each state, by the legislature thereof. I think it highly proper that the federal government should throw the exercise of this power into the hands of the state legislatures; but not that it should be placed there entirely without control.

If the Congress had it not in their power to make regulations, what might be the consequences? Some states might make no regulations at all on the subject. And shall the

existence of the House of Representatives, the immediate representation of the people in Congress, depend upon the will and pleasure of the state governments? Another thing may possibly happen; I don't say it will; but we were obliged to guard even against possibilities, as well as probabilities. A legislature may be willing to make the necessary regulations; yet the minority of that legislature may, by absenting themselves, break up the house, and prevent the execution of the intention of the majority. I have supposed the case, that some state governments may make no regulations at all; it is possible, also, that they may make improper regulations. I have heard it surmised by the opponents of this Constitution, that the Congress may order the election for Pennsylvania to be held at Pittsburg, and thence conclude that it would be improper for them to have the exercise of the power. But suppose, on the other hand, that the assembly should order an election to be held at Pittsburg; ought not the general government to have the power to alter such improper election of one of its own constituent parts? But there is an additional reason still that shows the necessity of this provisionary clause. The members of the Senate are elected by the state legislatures. If those legislatures possessed, uncontrolled, the power of prescribing the times, places, and manner, of electing members of the House of Representatives, the members of one branch of the general legislature would be the tenants at will of the electors of the other branch; and the general government would lie prostrate at the mercy of the legislatures of the several states.

I will ask, now, Is the inference fairly drawn, that the general government was intended to swallow up the state governments? Or was it calculated to answer such end? Or do its framers deserve such censure from honorable gentlemen? We find, on examining this paragraph, that it contains nothing more than the maxims of self-preservation, so abundantly secured by this Constitution to the individual states. Several other objections have been mentioned. I will not, at this time, enter into a discussion of them, though I may hereafter take notice of such as have any show of weight; but I thought it necessary to offer, at this time, the observations I have made, because I consider this as an important subject, and think the objection would be a strong one, if it was well founded.

FRIDAY, *November 30, 1787*, A. M. — Mr. WILSON, It is objected that the number of members in the House of Representatives is too small. This is a subject somewhat embarrassing, and the Convention who framed the article felt the embarrassment. Take either side of the question, and you are necessarily led into difficulties. A large representation, sir, draws along with it a great expense. We all know that expense is offered as an objection to this system of government; and certainly, had the representation been greater, the clamor would have been on that side, and perhaps with some degree of justice. But the expense is not the sole objection; it is the opinion of some writers, that a deliberative body ought not to consist of more than one hundred members. I think, however, that there might be safety and propriety in going beyond that number; but certainly there is some number so large that it would be improper to increase them beyond it. The British House of Commons consists of upwards of five hundred. The senate of Rome consisted, it is said, at some times, of one thousand members. This last number is certainly too great.

The Convention endeavored to steer a middle course; and, when we consider the scale on which they formed their calculation, there are strong reasons why the representation should not have been larger. On the ratio that they have fixed, of one for every thirty thousand, and according to the generally received opinion of the increase of population throughout the United States, the present number of their inhabitants will be doubled in twenty-five years, and according to that progressive proportion, and the ratio of one member for thirty thousand inhabitants, the House of Representatives will, within a single century, consist of more than six hundred members. Permit me to add a further observation on the numbers — that a large number is not so necessary in this case as in the cases of state legislatures. In them there ought to be a representation sufficient to declare the situation of every county, town, and district; and if of every individual, so much the better, because their legislative powers extend to the particular interest and convenience of each. But in the general government, its objects are enumerated, and are not confined, in their causes or operations, to a county, or even to a single state. No one power is of such a nature as to require the minute knowledge of situations

and circumstances necessary in state governments possessed of general legislative authority. These were the reasons, sir, that, I believe, had influence on the Convention, to agree to the number of thirty thousand; and when the inconveniences and conveniences, on both sides, are compared, it would be difficult to say what would be a number more unexceptionable.

SATURDAY, *December 1, 1787*, A. M. — Mr. WILSON. The secret is now disclosed, and it is discovered to be a dread, that the boasted *state sovereignties* will, under this system, be disrobed of part of their power. Before I go into the examination of this point, let me ask one important question. Upon what principle is it contended that the sovereign power resides in the state governments? The honorable gentleman has said truly, that there can be no subordinate sovereignty. Now, if there cannot, my position is, that the sovereignty resides in the people; they have not parted with it; they have only dispensed such portions of power as were conceived necessary for the public welfare. This Constitution stands upon this broad principle. I know very well, sir, that the people have hitherto been shut out of the federal government; but it is not meant that they should any longer be dispossessed of their rights. In order to recognize this leading principle, the proposed system sets out with a declaration that its existence depends upon the supreme authority of the people alone. We have heard much about a consolidated government. I wish the honorable gentleman would condescend to give us a definition of what he meant by it. I think this the more necessary, because I apprehend that the term, in the numerous times it has been used, has not always been used in the same sense. It may be said, and I believe it has been said, that a consolidated government is such as will absorb and destroy the governments of the several states. If it is taken in this view, the plan before us is not a consolidated government, as I showed on a former day, and may, if necessary, show further on some future occasion. On the other hand, if it is meant that the general government will take from the state governments their power in some particulars, it is confessed, and evident, that this will be its operation and effect.

When the principle is once settled that *the people* are the source of authority, the consequence is, that they may take

from the subordinate governments powers with which they have hitherto trusted them, and place those powers in the general government, if it is thought that there they will be productive of more good. They can distribute one portion of power to the more contracted circle, called *state governments*; they can also furnish another proportion to the government of the United States. Who will undertake to say, as a state officer, that the people may not give to the general government what powers, and for what purposes, they please? How comes it, sir, that these state governments dictate to their superiors — to the majesty of the people? When I say the *majesty of the people*, I mean the thing, and not a mere compliment to them. The honorable gentleman went further, and said that the state governments were kept out of this government altogether. The truth is, — and it is a leading principle in this system, — that not the states only, but the people also, shall be here represented. And if this is a crime, I confess the general government is chargeable with it; but I have no idea that a safe system of power in the government, sufficient to manage the general interest of the United States, could be drawn from any other source, or vested in any other authority, than that of the people at large; and I consider this authority as the rock on which this structure will stand. If this principle is unfounded, the system must fall. If the honorable gentlemen, before they undertake to oppose this principle, will show that the people have parted with their power to the state governments, then I confess I cannot support this Constitution. It is asked, Can there be *two taxing powers*? Will the people submit to two taxing powers? I think they will, when the taxes are required for the public welfare, by persons appointed immediately by their fellow-citizens.

But I believe this doctrine is a very disagreeable one to some of the state governments. All the objects that will furnish an increase of revenue are eagerly seized by them. Perhaps this will lead to the reason why a state government, when she was obliged to pay only about an eighth part of the loan-office certificates, should voluntarily undertake the payment of about one third part of them. This power of taxation will be regulated in the general government upon equitable principles. No state can have more than her just proportion to discharge; no longer will government be

obliged to assign her funds for the payment of debts she does not owe. Another objection has been taken, that the judicial powers are coextensive with the objects of the national government. As far as I can understand the idea of magistracy in every government, this seems to be a proper arrangement; the judicial department is considered as a part of the executive authority of government. Now, I have no idea that the authority should be restricted so as not to be able to perform its functions with full effect. I would not have the legislature sit to make laws which cannot be executed. It is not meant here that the laws shall be a dead letter: it is meant that they shall be carefully and duly considered before they are enacted, and that then they shall be honestly and faithfully executed. This observation naturally leads to a more particular consideration of the government before us. In order, sir, to give permanency, stability, and security to any government, I conceive it of essential importance, that its legislature should be restrained; that there should not only be what we call a *passive*, but an *active* power over it, for, of all kinds of despotism, this is the most dreadful, and the most difficult to be corrected. With how much contempt have we seen the authority of the people treated by the legislature of this state! and how often have we seen it making laws in one session, that have been repealed the next, either on account of the fluctuation of party, or their own impropriety.

This could not have been the case in a compound legislature; it is therefore proper to have efficient restraints upon the legislative body. These restraints arise from different sources. I will mention some of them. In this Constitution, they will be produced, in a very considerable degree, by a *division of the power* in the legislative body itself. Under this system, they may arise likewise from the interference of those officers who will be introduced into the executive and judicial departments. They may spring also from another source — the election by the people; and finally, under this Constitution, they may proceed from the great and last resort — from the *people* themselves. I say, under this Constitution, the legislature may be restrained, and kept within its prescribed bounds, by the interposition of the judicial department. This I hope, sir, to explain clearly and satisfactorily. I had occasion, on a former day, to state that the power of the Consti-

tution was paramount to the power of the legislature acting under that Constitution ; for it is possible that the legislature, when acting in that capacity, may transgress the bounds assigned to it, and an act may pass, in the usual *mode*, notwithstanding that transgression ; but when it comes to be discussed before *the judges*, — when they consider its principles, and find it to be incompatible with the superior power of the Constitution, — it is their duty to pronounce it *void* ; and judges independent, and not obliged to look to every session for a continuance of their salaries, will behave with intrepidity, and refuse to the act the sanction of judicial authority. In the same manner, the President of the United States could shield himself, and refuse to carry into effect an act that *violates* the Constitution.

In order to secure the President from any dependence upon the legislature as to his salary, it is provided that he shall, at stated times, receive for his services a compensation that shall neither be increased nor diminished during the period for which he shall have been elected, and that he shall not receive, within that period, any other emolument from the United States, or any of them.

To secure to the judges this independence, it is ordered that they shall receive for their services a compensation which shall not be diminished during their continuance in office. The Congress may be restrained by the election of its constituent parts. If a legislature shall make a law contrary to the Constitution, or oppressive to the people, they have it in their power, every second year, in one branch, and every sixth year, in the other, to displace the men who act thus inconsistently with their duty ; and if this is not sufficient, they have still a further power ; they may assume into their own hands the alteration of the Constitution itself ; they may revoke the lease when the conditions are broken by the tenant. But the most useful restraint upon the legislature, because it operates constantly, arises from the division of its power among two branches, and from the qualified negative of the President upon both. As this government is formed, there are two sources from which the representation is drawn, though they both ultimately flow from the people. *States* now exist, and others will come into existence ; it was thought proper that they should be represented in the general government. But gentlemen will please to remember this Consti

tution was not framed merely for the states ; it was framed for the *people* also ; and the popular branch of the Congress will be the objects of their immediate choice.

The two branches will serve as checks upon each other ; they have the same legislative authorities, except in one instance. Money bills must originate in the House of Representatives. The Senate can pass no law without the concurrence of the House of Representatives ; nor can the House of Representatives without the concurrence of the Senate. I believe, sir, that the observation which I am now going to make will apply to mankind in every situation : they will act with more caution, and perhaps more integrity, if their proceedings are to be under the inspection and control of another, than when they are not. From this principle, the proceedings of Congress will be conducted with a degree of circumspection not common in single bodies, where nothing more is necessary to be done than to carry the business through amongst themselves, whether it be right or wrong. In compound legislatures, every object must be submitted to a distinct body, not influenced by the arguments, or warped by the prejudices, of the other ; and I believe that the persons who will form the Congress will be cautious in running the risk, *with a bare majority*, of having the negative of the President put on their proceedings. As there will be more circumspection in forming the laws, so there will be more stability in the laws when made. Indeed, one is the consequence of the other ; for what has been well considered, and founded in good sense, will in practice be useful and salutary, and, of consequence, will not be liable to be soon repealed. Though two bodies may not possess more wisdom or patriotism than what may be found in a single body, yet they will necessarily introduce a greater degree of precision. An indigested and inaccurate code of laws is one of the most dangerous things that can be introduced into any government. The force of this observation is well known by every gentleman who has attended to the laws of this state. This, sir, is a very important advantage, that will arise from this division of the legislative authority.

I will proceed now to take some notice of a still further restraint upon the legislature — I mean the qualified *negative* of the President. I think this will be attended with very important advantages for the security and happiness of the

people of the United States. The President, sir, will not be a stranger to our country, to our laws, or to our wishes. He will, under this Constitution, be placed in office as the President of the whole Union, and will be chosen in such a manner that he may be justly styled *the man of the people*. Being elected by the different parts of the United States, he will consider himself as not particularly interested for any one of them, but will watch over the whole with paternal care and affection. This will be the natural conduct to recommend himself to those who placed him in that high chair, and I consider it as a very important advantage, that such a man must have every law presented to him, before it can become binding on the United States. He will have before him the fullest information of our situation; he will avail himself not only of records and official communications, foreign and domestic, but he will have also the advice of the executive officers in the different departments of the general government.

If, in consequence of this information and advice, he exercise the authority given to him, the effect will not be lost. He returns his *objections*, together with the bill; and, unless *two thirds* of both branches of the legislature are now found to approve it, it does not become a law. But, even if his objections do not prevent its passing into a law, they will not be useless; they will be kept, together with the law, and, in the archives of Congress, will be valuable and practical materials, to form the minds of posterity for legislation. If it is found that the law operates inconveniently, or oppressively, the people may discover in the President's objections the source of that inconvenience or oppression. Further, sir, when objections shall have been made, it is provided, in order to secure the greatest degree of caution and responsibility, that the *votes* of both houses shall be determined by *yeas* and *nays*, and the names of the persons voting for and against the bill shall be entered in the journal of each house respectively. This much I have thought proper to say, with regard to the distribution of the legislative authority, and the restraints under which it will be exercised.

The gentleman in opposition strongly insists that the general clause at the end of the eighth section gives to Congress a power of legislating generally; but I cannot conceive by what means he will render the words susceptible of that expansion. Can the words, "The Congress shall have power

to make all laws which shall be necessary and proper to carry into execution the foregoing powers," be capable of giving them general legislative power? I hope that it is not meant to give to Congress merely an illusive show of authority, to deceive themselves or constituents any longer. On the contrary, I trust it is meant that they shall have the power of carrying into effect the laws which they shall make under the powers vested in them by this Constitution. In answer to the gentleman from Fayette, (Mr. Smilie,) on the subject of the press, I beg leave to make an observation. It is very true, sir, that this Constitution says nothing with regard to that subject, nor was it necessary; because it will be found that there is given to the general government no power whatsoever concerning it; and no law, in pursuance of the Constitution, can possibly be enacted to destroy that liberty.

I heard the honorable gentleman make this general assertion, that the Congress was certainly vested with power to make such a law; but I would be glad to know by what part of this Constitution such a power is given? Until that is done, I shall not enter into a minute investigation of the matter, but shall at present satisfy myself with giving an answer to a question that has been put. It has been asked, If a law should be made to punish libels, and the judges should proceed under that law, what chance would the printer have of an acquittal? And it has been said he would drop into a den of devouring monsters!

I presume it was not in the view of the honorable gentleman to say there is no such thing as a libel, or that the writers of such ought not to be punished. The idea of the liberty of the press is not carried so far as this in any country. What is meant by the liberty of the press is, that there should be no antecedent restraint upon it; but that every author is responsible when he attacks the security or welfare of the government, or the safety, character, and property of the individual.

With regard to attacks upon the public, the mode of proceeding is by a prosecution. Now, if a libel is written, it must be within some one of the United States, or the district of Congress. With regard to that district, I hope it will take care to preserve this as well as the other rights of freemen; for, whatever district Congress may choose, the cession of it cannot be completed without the consent of its

inhabitants. Now, sir, if this *libel* is to be tried, it must be tried where the offence was committed ; for, under this Constitution, as declared in the 2d section of the 3d article, the trial must be held in the state ; therefore, on this occasion, it must be tried where it was published, if the indictment is for publishing ; and it must be tried likewise by a jury of that state. Now, I would ask, is the person prosecuted in a worse situation under the general government, even if it had the power to make laws on this subject, than he is at present under the state government ? It is true, there is no particular regulation made, to have the jury come from the body of the county in which the offence was committed ; but there are some states in which this mode of collecting juries is contrary to their established custom, and gentlemen ought to consider that this Constitution was not meant merely for Pennsylvania. In some states, the juries are not taken from a single county. In Virginia, the sheriff, I believe, is not confined even to the inhabitants of the state, but is at liberty to take any man he pleases, and put him on the jury. In Maryland, I think, a set of jurors serve for the whole western shore, and another for the eastern shore.

I beg to make one remark on what one gentleman has said, with respect to amendments being proposed to this Constitution. To whom are the Convention to make report of such amendments ? He tells you, to the present Congress. I do not wish to report to that body, the representatives only of the state governments ; they may not be disposed to admit the people into a participation of their power. It has also been supposed that a wonderful unanimity subsists among those who are enemies to the proposed system. On this point I also differ from the gentleman who made the observation. I have taken every pains in my power, and read every publication I could meet with, in order to gain information ; and, as far as I have been able to judge, the opposition is inconsiderable and inconsistent. Instead of agreeing in their objections, those who make them bring forward such as are diametrically opposite. On one hand, it is said that the representation in Congress is too small ; on the other, it is said to be too numerous. Some think the authority of the Senate too great ; some, that of the House of Representatives ; and some, that of both. Others draw their fears from the powers of the Pres-

ident; and, like the iron race of *Cadmus*, these opponents rise only to destroy each other.

MONDAY, *December 3, 1787*, A. M.—Mr. WILSON. Take detached parts of any system whatsoever, in the manner these gentlemen have hitherto taken this Constitution, and you will make it absurd and inconsistent with itself. I do not confine this observation to human performances alone; it will apply to divine writings. An anecdote, which I have heard, exemplifies this observation. When Sternhold and Hopkins's version of the Psalms was usually sung in the churches, a line was first read by the clerk, and then sung by the congregation. A sailor had stepped in, and heard the clerk read this line—

“ The Lord will come, and he will not —— ”

the sailor stared, and when the clerk read the next line —

“ Keep silence, but speak out —— ”

the sailor left the church, thinking the people were not in their senses.

This story may convey an idea of the treatment of the plan before you; for, although it contains sound sense when connected, yet, by the detached manner of considering it, it appears highly absurd.

Much fault has been found with the mode of expression used in the 1st clause of the 9th section of the 1st article. I believe I can assign a reason why that mode of expression was used, and why the term *slave* was *not* admitted in this *Constitution*; and as to the manner of laying taxes, this is not the first time that the subject has come into the view of the United States, and of the legislatures of the several states. The gentleman, (Mr. Findley) will recollect that, in the present Congress, the quota of the federal debt, and general expenses, was to be in proportion to the value of land; and other enumerated property, within states. After trying this for a number of years, it was found, on all hands, to be a mode that could not be carried into execution. Congress were satisfied of this; and, in the year 1783, recommended, in conformity with the powers they possessed under the Articles of Confederation, that the quota should be according to the number of free people, including those bound to servitude, and excluding Indians not taxed. These were the expressions used in 1783; and the fate of this recommenda-

tion was similar to all their other resolutions. It was not carried into effect, but it was adopted by no fewer than eleven out of thirteen states; and it cannot but be matter of surprise to hear gentlemen, who agreed to this very mode of expression at that time, come forward and state it as an objection on the present occasion. It was natural, sir, for the late Convention to adopt the mode after it had been agreed to by eleven states, and to use the expression which they found had been received as unexceptionable before.

With respect to the clause restricting Congress from prohibiting the *migration or importation of such persons* as any of the states now existing shall think proper to admit, prior to the year 1808, the honorable gentleman says that this clause is not only dark, but intended to grant to Congress, for that time, the power to admit the importation of *slaves*. No such thing was intended. But I will tell you what was done, and it gives me high pleasure that so much was done. Under the present Confederation, the states may admit the importation of slaves as long as they please; but by this article, after the year 1808, the Congress will have power to prohibit such importation, notwithstanding the disposition of any state to the contrary. I consider this as laying the foundation for banishing slavery out of this country; and though the period is more distant than I could wish, yet it will produce the same kind, gradual change, which was pursued in Pennsylvania. It is with much satisfaction I view this power in the general government, whereby they may lay an interdiction on this reproachful trade: but an immediate advantage is also obtained; for a tax or duty may be imposed on such importation, not exceeding ten dollars for each person; and this, sir, operates as a partial prohibition; it was all that could be obtained. I am sorry it was no more; but from this I think there is reason to hope, that yet a few years, and it will be prohibited altogether; and in the mean time, the *new* states which are to be formed will be under *the control* of Congress in this particular, and slaves will never be introduced amongst them. The gentleman says that it is unfortunate in another point of view: it means to prohibit the introduction of white people from Europe, as this tax may deter them from coming amongst us. A little impartiality and attention will discover the care that the Convention took in selecting their language. The

words are, "the migration or importation of such persons, &c., shall not be prohibited by Congress prior to the year 1808, but a tax or duty may be imposed on such importation." It is observable here that the term *migration* is dropped, when a tax or duty is mentioned, so that Congress have power to impose the tax only on those imported.

TUESDAY, *December 4, 1787*, A. M. — Mr. WILSON. I shall take this opportunity of giving an answer to the objections already urged against the Constitution; I shall then point out some of those qualities that entitle it to the attention and approbation of this Convention; and, after having done this, I shall take a fit opportunity of stating the consequences which, I apprehend, will result from rejecting it, and those which will probably result from its adoption. I have given the utmost attention to the debates, and the objections that, from time to time, have been made by the three gentlemen who speak in opposition. I have reduced them to some order, perhaps not better than that in which they were introduced. I will state them; they will be in the recollection of the house, and I will endeavor to give an answer to them: in that answer, I will interweave some remarks, that may tend to elucidate the subject.

A good deal has already been said concerning *a bill of rights*. I have stated, according to the best of my recollection, all that passed in Convention relating to that business. Since that time, I have spoken with a gentleman, who has not only his memory, but full notes that he had taken in that body, and he assures me that, upon this subject, no direct motion was ever made at all; and certainly, before we heard this so violently supported out of doors, some pains ought to have been taken to have tried its fate within; but the truth is, a bill of rights would, as I have mentioned already, have been not only unnecessary, but improper. In some governments, it may come within the gentleman's idea, when he says it can do no harm; but even in these governments, you find bills of rights do not uniformly obtain; and do those states complain who have them not? Is it a maxim in forming governments, that not only all the powers which are given, but also that all those which are reserved, should be enumerated? I apprehend that the powers given and reserved form the whole rights of the people, as men and as

citizens. I consider that there are very few who understand the whole of these rights. All the political writers, from *Grotius* and *Puffendorf* down to *Vattel*, have treated on this subject; but in no one of those books, nor in the aggregate of them all, can you find a complete enumeration of rights appertaining to the people as men and as citizens.

There are two kinds of government — that where general power is intended to be given to the legislature, and that where the powers are particularly enumerated. In the last case, the implied result is, that nothing more is intended to be given than what is so enumerated, unless it results from the nature of the government itself. On the other hand, when general legislative powers are given, then the people part with their authority, and, on the gentleman's principle of government, retain nothing. But in a government like the proposed one, there can be no necessity for a bill of rights; for, on my principle, the people never part with their power. Enumerate all the rights of men! I am sure, sir, that no gentleman in the late Convention would have attempted such a thing. I believe the honorable speakers in opposition on this floor were members of the assembly which appointed delegates to that Convention; if it had been thought proper to have sent them into that body, how luminous would the dark conclave have been! — so the gentleman has been pleased to denominate that body. Aristocrats as they were, they pretended not to define the rights of those who sent them there. We ask, repeatedly, What harm could the addition of a bill of rights do? If it can do no good, I think that a sufficient reason to refuse having any thing to do with it. But to whom are we to report this bill of rights, if we should adopt it? Have we authority from those who sent us here to make one?

It is true, we may propose as well as any other private persons; but how shall we know the sentiments of the citizens of this state and of the other states? Are we certain that any one of them will agree with our definitions and enumerations?

In the second place, we are told that there is no check upon the government but the people. It is unfortunate, sir, if ~~their~~ superintending authority is allowed as a check; but I apprehend that, in the very construction of this government, there are numerous checks. Besides those expressly enu-

merated, the two branches of the legislature are mutual checks upon each other. But this subject will be more properly discussed when we come to consider the form of the government itself; and then I mean to show the reason why the right of *habeas corpus* was secured by a particular declaration in its favor.

In the third place, we are told that there is no security for the rights of conscience. I ask the honorable gentleman, what part of this system puts it in the power of Congress to attack those rights? When there is no power to attack, it is idle to prepare the means of defence.

After having mentioned, in a cursory manner, the foregoing objections, we now arrive at the leading ones against the proposed system.

The very manner of introducing this Constitution, by the recognition of the authority of the people, is said to change the principle of the present Confederation, and to introduce a *consolidating* and absorbing government.

In this confederated republic, the sovereignty of the states, it is said, is not preserved. We are told that there cannot be two sovereign powers, and that a subordinate sovereignty is no sovereignty.

It will be worth while, Mr. President, to consider this objection at large. When I had the honor of speaking formerly on this subject, I stated, in as concise a manner as possible, the leading ideas that occurred to me, to ascertain where the supreme and sovereign power resides. It has not been, nor, I presume, will it be denied, that somewhere there is, and of necessity must be, a supreme, absolute, and uncontrollable authority. This, I believe, may justly be termed the *sovereign* power; for, from that gentleman's (Mr. Findley) account of the matter, it cannot be sovereign unless it is supreme; for, says he, a subordinate sovereignty is no sovereignty at all. I had the honor of observing, that, if the question was asked, where the supreme power resided, different answers would be given by different writers. I mentioned that Blackstone will tell you that, in Britain, it is lodged in the British Parliament; and I believe there is no writer on this subject, on the other side of the Atlantic, but supposed it to be vested in that body. I stated, further, that, if the question was asked of some politician, who had not considered the subject with sufficient accuracy, where

the supreme power resided in our governments, he would answer, that it was vested in the state constitutions. This opinion approaches near the truth, but does not reach it; for the truth is, that the supreme, absolute, and uncontrollable authority *remains* with the people. I mentioned, also, that the practical recognition of this truth was reserved for the honor of this country. I recollect no constitution founded on this principle; but we have witnessed the improvement, and enjoy the happiness of seeing it carried into practice. The great and penetrating mind of *Locke* seems to be the only one that pointed towards even the theory of this great truth.

When I made the observation that some politicians would say the supreme power was lodged in our state constitutions, I did not suspect that the honorable gentleman from Westmoreland (Mr. Findley) was included in that description; but I find myself disappointed; for I imagined his opposition would arise from another consideration. His position is, that the supreme power resides in the states, as governments; and mine is, that it *resides* in the people, as the fountain of government; that the people have not—that the people meant not—and that the people ought not—to part with it to any government whatsoever. In their hands it remains secure. They can delegate it in such proportions, to such bodies, on such terms, and under such limitations, as they think proper. I agree with the members in opposition, that there cannot be two sovereign powers on the same subject.

I consider the people of the United States as forming one great community; and I consider the people of the different states as forming communities, again, on a lesser scale. From this great division of the people into distinct communities, it will be found necessary that different proportions of legislative powers should be given to the governments, according to the nature, number, and magnitude of their objects.

Unless the people are considered in these two views, we shall never be able to understand the principle on which this system was constructed. I view the states as made *for* the people, as well as by them, and not the people as made for the states; the people, therefore, have a right, whilst enjoying the undeniable powers of society, to form either a general government, or state governments, in what manner they

please, or to accommodate them to one another, and by this means preserve them all. This, I say, is the inherent and unalienable right of the people; and as an illustration of it, I beg to read a few words from the Declaration of Independence, made by the representatives of the United States, and recognized by the whole Union.

“ We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, *governments* are instituted among men, *deriving their just powers from the consent of the governed*; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and institute new government, laying its foundation on such principles, and organizing its powers in such forms, as to them shall seem most likely to effect their safety and happiness.”

This is the broad basis on which our independence was placed: on the same certain and solid foundation this system is erected.

State sovereignty, as it is called, is far from being able to support its weight. Nothing less than the authority of the people could either support it or give it efficacy. I cannot pass over this subject without noticing the different conduct pursued by the late federal Convention, and that observed by the Convention which framed the Constitution of Pennsylvania. On that occasion you find an attempt made to deprive the people of this right, so lately and so expressly asserted in the Declaration of Independence. We are told, in the preamble to the declaration of rights, and frame of government, that *we* “do, by virtue of the authority vested in *us*, ordain, declare, and establish, the following declaration of rights and frame of government, to be the Constitution of this commonwealth, and to remain in force therein unaltered, except in such articles as shall hereafter, on experience, be found to require improvement, and which shall, by the same authority of the people, fairly delegated *as this frame of government directs*.” — An honorable gentleman (Mr. Chambers) was well warranted in saying that all that could be done was done, to cut off the people from the right of amending; for it cannot be amended by any other mode than that which it directs; then, any number more than one third may control any number less than two thirds.

But I return to my general reasoning. My position is, sir, that, in this country, the supreme, absolute, and uncontrollable

ble power resides in the people at large; that they have vested certain proportions of this power in the state governments; but that the fee-simple continues, resides, and remains, with the body of the people. Under the practical influence of this great truth, we are now sitting and deliberating, and under its operation, we can sit as calmly and deliberate as coolly, in order to change a constitution, as a legislature can sit and deliberate under the power of a constitution, in order to alter or amend a law. It is true, the exercise of this power will not probably be so frequent, nor resorted to on so many occasions, in one case as in the other; but the recognition of the principle cannot fail to establish it more firmly. But, because this recognition is made in the proposed Constitution, an exception is taken to the whole of it; for we are told it is a violation of the present Confederation — *a Confederation of sovereign states*. I shall not enter into an investigation of the present Confederation, but shall just remark that its principle is not the principle of free governments. The people of the United States are not, as such, represented in the present Congress; and, considered even as the component parts of the several states, they are not represented in proportion to their numbers and importance.

In this place I cannot help remarking on the general inconsistency which appears between one part of the gentleman's objections and another. Upon the principle we have now mentioned, the honorable gentleman contended that the powers ought to flow from the states; and that all the late Convention had to do, was to give additional powers to Congress. What is the present form of Congress? A single body, with some legislative, but little executive, and no effective judicial power. What are these additional powers that are to be given? In some cases, legislative are wanting; in others, judicial; and in others, executive. These, it is said, ought to be allotted to the general government. But the impropriety of delegating such extensive trust to one body of men is evident; yet in the same day, and perhaps in the same hour, we are told by honorable gentlemen that those three branches of government are not kept sufficiently distinct in this Constitution; we are told, also, that the Senate, possessing some executive power, as well as legislative, is such a monster, that it will swallow up and absorb

every other body in the general government, after having destroyed those of the particular states.

Is this reasoning with consistency? Is the Senate, under the proposed Constitution, so tremendous a body, when checked in their legislative capacity by the House of Representatives, and in their executive authority by the President of the United States? Can this body be so tremendous as the present Congress, a single body of men, possessed of legislative, executive, and judicial powers? To what purpose was Montesquieu read to show that this was a complete tyranny? The application would have been more properly made, by the advocates of the proposed Constitution, against the patrons of the present Confederation.

It is mentioned that this federal government will annihilate and absorb all the state governments. I wish to save, as much as possible, the time of the house: I shall not, therefore, recapitulate what I had the honor of saying last week on this subject. I hope it was then shown that, instead of being abolished, (as insinuated,) from the very nature of things, and from the organization of the system itself, the state governments must exist, or the general governments must fall amidst their ruins. Indeed, so far as to the forms, it is admitted they may remain; but the gentlemen seem to think their power will be gone.

I shall have occasion to take notice of this power hereafter; and, I believe, if it was necessary, it could be shown that the state governments, as states, will enjoy as much power, and more dignity, happiness, and security, than they have hitherto done. I admit, sir, that some of the powers will be taken from them by the system before you; but it is, I believe, allowed on all hands—at least it is not among us a disputed point—that the late Convention was appointed with a particular view to give more power to the government of the Union. It is also acknowledged that the intention was to obtain the advantage of an efficient government over the United States. Now, if power is to be given by that government, I apprehend it must be taken from some place. If the state governments are to retain all the powers they held before, then, of consequence, every new power that is given to Congress must be taken from the people at large. Is this the gentleman's intention? I believe a strict examination of this subject will justify me in

asserting that the states, as governments, have assumed too much power to themselves, while they left little to the people. Let not this be called cajoling the people — the elegant expression used by the honorable gentleman from Westmoreland, (Mr. Findley.) It is hard to avoid censure on one side or the other. At some time, it has been said that I have not been at the pains to conceal my contempt of the people; but when it suits a purpose better, it is asserted that I cajole them. I do neither one nor the other. The voice of approbation, sir, when I think that approbation well earned, I confess, is grateful to my ears; but I would disdain it, if it is to be purchased by a sacrifice of my duty or the dictates of my conscience. No, sir; I go practically into this system; I have gone into it practically when the doors were shut, when it could not be alleged that I cajoled the people; and I now endeavor to show that the true and only safe principle for a free people, is a practical recognition of their original and supreme authority.

I say, sir, that it was the design of this system to take some power from the state governments, and to place it in the general government. It was also the design that the people should be admitted to the exercise of some powers which they did not exercise under the present federation. It was thought proper that the citizens, as well as the states, should be represented. How far the representation in the Senate is a representation of states, we shall see by and by, when we come to consider that branch of the federal government.

This system, it is said, “unhinges and eradicates the state governments, and was systematically intended so to do.” To establish the intention, an argument is drawn from art. 1st, sect. 4th, on the subject of elections. I have already had occasion to remark upon this, and shall therefore pass on to the next objection —

That the last clause of the 8th section of the 1st article, gives the power of self-preservation to the general government, independent of the states; for, in case of their abolition, it will be alleged, in behalf of the general government, that self-preservation is the first law, and necessary to the exercise of all other powers.

Now, let us see what this objection amounts to. Who are to have this self-preserving power? The Congress.

Who are Congress? It is a body that will consist of a Senate and a House of Representatives. Who compose this Senate? Those who are elected by the *legislature* of the different states? Who are the electors of the House of Representatives? Those who are qualified to vote for the most numerous branch of the *legislature* in the separate states. Suppose the state legislatures annihilated; where is the criterion to ascertain the qualification of electors? and unless this be ascertained, they cannot be admitted to vote; if a state legislature is not elected, there can be no Senate, because the senators are to be chosen by the *legislatures only*.

This is a plain and simple deduction from the Constitution; and yet the objection is stated as conclusive upon an argument expressly drawn from the last clause of this section.

It is repeated with confidence, "that this is not a *federal government*, but a complete one, with legislative, executive, and judicial powers: it is a consolidating government." I have already mentioned the misuse of the term; I wish the gentleman would indulge us with his definition of the word. If, when he says it is a consolidation, he means so far as relates to the general objects of the Union, — so far it was intended to be a consolidation, and on such a consolidation, perhaps, our very existence, as a nation, depends. If, on the other hand, (as something which has been said seems to indicate,) he (Mr. Findley) means that it will absorb the governments of the individual states, — so far is this position from being admitted, that it is unanswerably controverted.

The existence of the state governments is one of the most prominent features of this system. With regard to those purposes which are allowed to be for the general welfare of the Union, I think it no objection to this plan, that we are told it is a complete government. I think it no objection, that it is alleged the government will possess legislative, executive, and judicial powers. Should it have only legislative authority, we have had examples enough of such a government to deter us from continuing it. Shall Congress any longer continue to make requisitions from the several states, to be treated sometimes with silent and sometimes with declared contempt? For what purpose give the power to make laws, unless they are to be executed? and if they are to be executed, the executive and judicial powers will necessarily be engaged in the business.

Do we wish a return of those insurrections and tumults to which a sister state was lately exposed? or a government of such insufficiency as the present is found to be? Let me, sir, mention one circumstance in the recollection of every honorable gentleman who hears me. To the determination of Congress are submitted all disputes between states concerning boundary, jurisdiction, or right of soil. In consequence of this power, after much altercation, expense of time, and considerable expense of money, this state was successful enough to obtain a decree in her favor, in a difference then subsisting between her and Connecticut; but what was the consequence? The Congress had no power to carry the decree into execution. Hence the distraction and animosity, which have ever since prevailed, and still continue in that part of the country. Ought the government, then, to remain any longer incomplete? I hope not. No person can be so insensible to the lessons of experience as to desire it.

It is brought as an objection "that there will be a rivalry between the state governments and the general government; on each side endeavors will be made to increase power."

Let us examine a little into this subject. The gentlemen tell you, sir, that they expect the states will not possess any power. But I think there is reason to draw a different conclusion. Under this system, their respectability and power will increase with that of the general government. I believe their happiness and security will increase in a still greater proportion. Let us attend a moment to the situation of this country. It is a maxim of every government, and it ought to be a maxim with us, that the increase of numbers increases the dignity and security, and the respectability, of all governments. It is the first command given by the Deity to man, Increase and multiply. This applies with peculiar force to this country, the smaller part of whose territory is yet inhabited. We are representatives, sir, not merely of the present age, but of future times; not merely of the territory along the sea-coast, but of regions immensely extended westward. We should fill, as fast as possible, this extensive country, with men who shall live happy, free, and secure. To accomplish this great end ought to be the leading view of all our patriots and statesmen. But how is it to be ac

complished, but by establishing peace and harmony among ourselves, and dignity and respectability among foreign nations? By these means, we may draw members from the other side of the Atlantic, in addition to the natural sources of population. Can either of these objects be attained without a protecting head? When we examine history, we shall find an important fact, and almost the only fact which will apply to all confederacies:—

They have all fallen to pieces, and have not absorbed the government.

In order to keep republics together, they must have a strong binding force, which must be either external or internal. The situation of this country shows that no foreign force can press us together; the bonds of our union ought therefore to be indissolubly strong.

The *powers of the states*, I apprehend, will increase with the population and the happiness of their inhabitants. Unless we can establish a character abroad, we shall be unhappy from foreign restraints or internal violence. These reasons, I think, prove sufficiently the necessity of having a federal head. Under it, the advantages enjoyed by the whole Union would be participated by every state. I wish honorable gentlemen would think not only of themselves, not only of the present age, but of others, and of future times.

It has been said "that the *state governments* will not be able to make head against the *general government*;" but it might be said, with more propriety, that the general government will not be able to maintain the powers given it against the encroachments and combined attacks of the state governments. They possess some particular advantages from which the general government is restrained. By this system there is a provision made in the Constitution, that no senator or representative shall be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during the time for which he was elected; and no person holding any office under the United States can be a member of either house. But there is no similar security against state influence, as a representative may enjoy places, and even sinecures, under the state governments. On which side is the door most open to *corruption*? If a person in the legislature is to be influenced by an office,

the general government can give him none unless he vacate his seat. When the influence of office comes from the state government, he can retain his seat and salary too. But it is added, under this head, "that state governments will lose the attachment of the people, by losing the power of conferring advantages, and that the people will not be at the expense of keeping them up." Perhaps the state governments have already become so expensive as to alarm the gentlemen on that head. I am told that the civil list of this state amounted to £40,000 in one year. Under the proposed government, I think it would be possible to obtain, in Pennsylvania, every advantage we now possess, with a civil list that shall not exceed one third of that sum.

How differently the same thing is talked of, if it be a favorite or otherwise! When advantages to an officer are to be derived from the general government, we hear them mentioned by the name of *bribery*; but when we are told of the state governments' losing the power of conferring advantages, by the disposal of offices, it is said they will lose the attachment of the people. What is in one instance corruption and bribery, is in another the power of conferring advantages.

We are informed "that the state elections will be ill attended, and that the state governments will become mere boards of electors." Those who have a due regard for their country will discharge their duty and attend; but those who are brought only from interest or persuasion had better stay away; the public will not suffer any disadvantage from their absence. But the honest citizen, who knows the value of the privilege, will undoubtedly attend, to secure the man of his choice. The power and business of the state legislatures relate to the great objects of life, liberty and property; the same are also objects of the general government.

Certainly, the citizens of America will be as tenacious in the one instance as in the other. They will be interested, and I hope will exert themselves, to secure their rights not only from being injured by the state governments, but also from being injured by the general government.

"The power over elections, and of judging of elections, gives absolute sovereignty." This power is given to every state legislature; yet I see no necessity that the power of absolute sovereignty should accompany it. My general posi-

tion is, that the absolute sovereignty never goes from the people.

We are told "that it will be in the power of the Senate to prevent any addition of representatives to the lower house."

I believe their power will be pretty well balanced; and though the Senate should have a desire to do this, yet the attempt will answer no purpose, for the House of Representatives will not let them have a farthing of public money till they agree to it; and the latter influence will be as strong as the other.

"Annual assemblies are necessary," it is said; and I answer, in many instances they are very proper. In Rhode Island and Connecticut, they are elected for six months. In larger states, that period would be found very inconvenient; but, in a government as large as that of the United States, I presume that annual *elections* would be more disproportionate than elections for six months would be in some of our largest states.

"The British Parliament took to themselves the prolongation of their sitting to seven years. But, even in the British Parliament, the appropriations are annual."

But, sir, how is the argument to apply here? How are the Congress to assume such a power? They cannot assume it under the Constitution, for that expressly provides, "The members of the House of Representatives shall be chosen, every two years, by the people of the several states, and the senators for six years." So, if they take it at all, they must take it by usurpation and force.

Appropriations may be made for two years, though in the British Parliament they are made but for one. For some purposes, such appropriations may be made annually; but for every purpose, they are not: even for a standing army, they may be made for seven, ten, or fourteen years: the civil list is established during the life of a prince. Another objection is, "that the members of the Senate may enrich themselves; they may hold their office as long as they live, and there is no power to prevent them; the Senate will swallow up every thing." I am not a blind admirer of this system. Some of the powers of the senators are not, with me, the favorite parts of it; but as they stand connected with other parts, there is still security against the efforts of that body. It was with great difficulty that security was obtained, and I may

risk the conjecture that, if it is not now accepted, it never will be obtained again from the same states. Though the *Senate* was not a favorite of mine, as to some of its powers, yet it was a favorite with a majority in the Union ; and we must submit to that majority, or we must break up the Union. It is but fair to repeat those reasons that weighed with the Convention : perhaps I shall not be able to do them justice ; but yet I will attempt to show why additional powers were given to the Senate rather than to the House of Representatives. These additional powers, I believe, are, that of trying impeachments, that of concurring with the President in making *treaties*, and that of concurring in the appointment of officers. These are the powers that are stated as improper. It is fortunate, that, in the extent of every one of them, the Senate stands controlled. If it is that monster which it is said to be, it can only show its teeth ; it is unable to bite or devour. With regard to *impeachments*, the Senate can try none but such as will be brought before them by the House of Representatives.

The Senate can make no treaties : they can approve of none, unless the President of the United States lays it before them. With regard to the appointment of officers, the President must nominate before they can vote ; so that, if the powers of either branch are perverted, it must be with the approbation of some one of the other branches of government. Thus checked on each side, they can do no one act of themselves.

“ The powers of Congress extend to taxation — to direct taxation — to internal taxation — to poll taxes — to excises — to other state and internal purposes.” Those who possess the power to tax, possess all other sovereign power. That their powers are thus extensive is admitted ; and would any thing short of this have been sufficient ? Is it the wish of these gentlemen — if it is, let us hear their sentiments — that the general government should subsist on the bounty of the states ? Shall it have the power to contract, and no power to fulfil the contract ? Shall it have the power to borrow money, and no power to pay the principal or interest ? Must we go on in the track that we have hitherto pursued ? And must we again compel those in Europe, who lent us money in our distress, to advance the money to pay themselves interest on the certificates of the debts due to them ?

This was actually the case in Holland the last year. Like those who have shot one arrow, and cannot regain it, they have been obliged to shoot another in the same direction, in order to recover the first. It was absolutely necessary, sir, that this government should possess these rights; and why should it not, as well as the state governments? Will this government be fonder of the exercise of this authority than those of the states are? Will the states, who are equally represented in one branch of the legislature, be more opposed to the payment of what shall be required by the future, than what has been required by the present Congress? Will the people, who must indisputably pay the whole, have more objections to the payment of this tax, because it is laid by persons of their own immediate appointment, even if those taxes were to continue as oppressive as they now are? But, under the general power of this system, that cannot be the case in Pennsylvania. Throughout the Union, direct taxation will be lessened, at least in proportion to the increase of the other objects of revenue. In this Constitution, a power is given to Congress to collect imposts, which is not given by the present Articles of the Confederation. A very considerable part of the revenue of the United States will arise from that source; it is the easiest, most just, and most productive mode of raising revenue; and it is a safe one, because it is voluntary. No man is obliged to consume more than he pleases, and each buys in proportion only to his consumption. The price of the commodity is blended with the tax, and the person is often not sensible of the payment. But would it have been proper to rest the matter there? Suppose this fund should not prove sufficient; ought the public debts to remain unpaid, or the exigencies of government be left unprovided for? should our tranquillity be exposed to the assaults of foreign enemies, or violence among ourselves, because the objects of commerce may not furnish a sufficient revenue to secure them all? Certainly, Congress should possess the power of raising revenue from their constituents, for the purpose mentioned in the 8th section of the 1st article; that is, "to pay the debts and provide for the common defence and general weifare of the United States." It has been common with the gentlemen, on this subject, to present us with frightful pictures. We are told of the hosts of tax-gatherers that will

swarm through the land ; and whenever taxes are mentioned, military force seems to be an attending idea. I think I may venture to predict that the taxes of the general government, if any shall be laid, will be more equitable, and much less expensive, than those imposed by state governments.

I shall not go into an investigation of this subject ; but it must be confessed that scarcely any mode of laying and collecting taxes can be more burdensome than the present.

Another objection is, "that Congress may borrow money, keep up standing armies, and command the militia." The present Congress possesses the power of borrowing money and of keeping up standing armies. Whether it will be proper at all times to keep up a body of troops, will be a question to be determined by Congress ; but I hope the necessity will not subsist at all times. But if it should subsist, where is the gentleman that will say that they ought not to possess the necessary power of keeping them up ?

It is urged, as a general objection to this system, that "the powers of Congress are unlimited and undefined, and that they will be the judges, in all cases, of what is necessary and proper for them to do." To bring this subject to your view, I need do no more than point to the words in the Constitution, beginning at the 8th sect. art. 1st. "The Congress (it says) shall have power," &c. I need not read over the words, but I leave it to every gentleman to say whether the powers are not as accurately and minutely defined, as can be well done on the same subject, in the same language. The old Constitution is as strongly marked on this subject ; and even the concluding clause, with which so much fault has been found, gives no more or other powers ; nor does it, in any degree, go beyond the particular enumeration ; for, when it is said that Congress shall have power to make all laws which shall be necessary and proper, those words are limited and defined by the following, "for carrying into execution the foregoing powers." It is saying no more than that the powers we have already particularly given, shall be effectually carried into execution.

I shall not detain the house, at this time, with any further observations on the liberty of the press, until it is shown that Congress have any power whatsoever to interfere with it, by licensing it to declare what shall be a libel.

I proceed to another objection, which was not so fully

stated as I believe it will be hereafter ; I mean the objection against the *judicial department*. The gentleman from Westmoreland only mentioned it to illustrate his objection to the legislative department.

He said, "that the judicial powers were coëxtensive with the legislative powers, and extend even to capital cases." I believe they ought to be coëxtensive ; otherwise, laws would be framed that could not be executed. Certainly, therefore, the executive and judicial departments ought to have power commensurate to the extent of the laws ; for, as I have already asked, are we to give power to make laws, and no power to carry them into effect ?

I am happy to mention the punishment annexed to one crime. You will find the current running strong in favor of humanity ; for this is the first instance in which it has not been left to the legislature to extend the crime and punishment of treason so far as they thought proper. This punishment, and the description of this crime, are the great sources of danger and persecution, on the part of government, against the citizen. Crimes against the state ! and against the officers of the state ! History informs us that more wrong may be done on this subject than on any other whatsoever. But, under this Constitution, there can be no treason against the United States, except such as is defined in this Constitution. The manner of trial is clearly pointed out ; the positive testimony of two witnesses to the same overt act, or a confession in open court, is required to convict any person of treason. And, after all, the consequences of the crime shall extend no further than the life of the criminal ; for no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted.

I come now to consider the last set of objections that are offered against this Constitution. It is urged that this is not such a system as was within the powers of the Convention ; they assumed the *power of proposing*. I believe they might have made proposals without going beyond their powers. I never heard, before, that to make a proposal was an exercise of power. But if it is an exercise of power, they certainly did assume it ; yet they did not act as that body who framed the present Constitution of Pennsylvania acted ; they did not, by an ordinance, attempt to rivet the Constitution on

the people, before they could vote for members of Assembly under it. Yet such was the effect of the ordinance that attended the Constitution of this commonwealth.

I think the late Convention has done nothing beyond their powers. The fact is, they have exercised no power at all, and, in point of validity, this Constitution, proposed by them for the government of the United States, claims no more than a production of the same nature would claim, flowing from a private pen. It is laid before the citizens of the United States, unfettered by restraint; it is laid before them to be judged by the natural, civil, and political rights of men. By their *fiat*, it will become of value and authority; without it, it will never receive the character of authenticity and power. The business, we are told, which was intrusted to the late Convention, was merely to amend the present Articles of Confederation. This observation has been frequently made, and has often brought to my mind a story that is related of Mr. Pope, who, it is well known, was not a little deformed. It was customary with him to use this phrase, "God mend me!" when any little accident happened. One evening, a link-boy was lighting him along, and, coming to a gutter, the boy jumped nimbly over it. Mr. Pope called to him to turn, adding, "God mend me!" The arch rogue, turning to light him, looked at him, and repeated, "God mend you! He would sooner make half-a-dozen new ones." This would apply to the present Confederation; for it would be easier to make another than to amend this. The gentlemen urge that this is such a government as was not expected by the people, the legislatures, nor by the honorable gentlemen who mentioned it. Perhaps it was not such as was expected, but it may be better; and is that a reason why it should not be adopted? It is not worse, I trust, than the former. So that the argument of its being a system not expected, is an argument more strong in its favor than against it.

The letter which accompanies this Constitution must strike every person with the utmost force.

"The friends of our country have long seen and desired that the power of war, peace, and treaties, that of levying money and regulating commerce, and the corresponding executive and judicial authorities, should be fully and effectually vested in the general government of the Union; but

the impropriety of delegating such extensive trust to one body of men, is evident. *Hence results the necessity of a different organization."*

I therefore do not think that it can be urged, as an objection against this system, that it was not expected by the people. We are told, to add greater force to these objections, that they are not on local but on general principles, and that they are uniform throughout the United States. I confess I am not altogether of that opinion; I think some of the objections are inconsistent with others, arising from a different quarter, and I think some are inconsistent even with those derived from the same source. But, on this occasion, let us take the fact for granted, that they are all on general principles, and uniform throughout the United States. Then we can judge of their full amount; and what are they, but trifles light as air? We see the whole force of them; for, according to the sentiments of opposition, they can nowhere be stronger, or more fully stated, than here. The conclusion, from all these objections, is reduced to a point, and the plan is declared to be inimical to our liberties. I have said nothing, and mean to say nothing, concerning the dispositions or characters of those that framed the work now before you. I agree that it ought to be judged by its own intrinsic qualities. If it has not merit, weight of character ought not to carry it into effect. On the other hand, if it has merit, and is calculated to secure the blessings of liberty, and to promote the general welfare, then such objections as have hitherto been made ought not to influence us to reject it.

I am now led to consider those qualities that this system of government possesses, which will entitle it to the attention of the United States. But as I have somewhat fatigued myself, as well as the patience of the honorable members of this house, I shall defer what I have to add on this subject until the afternoon.

Eodem Die, P. M. — Mr. WILSON. Before I proceed to consider those qualities in the Constitution before us which I think will insure it our approbation, permit me to make some remarks — and they shall be very concise — upon the objections that were offered this forenoon, by the member from Fayette, (Mr. Smilie.) I do it at this time because I think it will be better to give a satisfactory an

swer to the whole of the objections, before I proceed to the other part of my subject. I find that the doctrine of a single legislature is not to be contended for in this Constitution. I shall therefore say nothing on that point. I shall consider that part of the system, when we come to view its excellences. Neither shall I take particular notice of his observation on the *qualified negative* of the President; for he finds no fault with it: he mentions, however, that he thinks it a vain and useless power, because it can never be executed. The reason he assigns for this is, that the king of Great Britain, who has an absolute negative over the laws proposed by Parliament, has never exercised it, at least for many years. It is true, and the reason why he did not exercise it was that, during all that time, the king possessed a negative before the bill had passed through the two houses—a much stronger power than a negative after debate. I believe, since the revolution, at the time of William III., it was never known that a bill disagreeable to the crown passed both houses. At one time, in the reign of Queen Anne, when there appeared some danger of this being effected, it is well known that she created twelve peers, and by that means effectually defeated it. Again: there was some risk, of late years, in the present reign, with regard to Mr. Fox's East India Bill, as it is usually called, that passed through the House of Commons; but the king had interest enough in the House of Peers to have it thrown out; thus it never came up for the royal assent. But that is no reason why this negative should not be exercised here, and exercised with great advantage. Similar powers are known in more than one of the states. The governors of Massachusetts and New York have a power similar to this, and it has been exercised frequently to good effect.

I believe the governor of New York, under this power, has been known to send back five or six bills in a week; and I well recollect that, at the time the funding system was adopted by our legislature, the people in that state considered the negative of the governor as a great security that their legislature would not be able to encumber them by a similar measure. Since that time, an alteration has been supposed in the governor's conduct, but there has been no alteration in his power.

The honorable gentleman from Westmoreland, (Mr. Fin-

ley,) by his highly-refined critical abilities, discovers an inconsistency in this part of the Constitution, and that which declares, in section 1, "All legislative powers, herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives;" and yet here, says he, is a power of legislation given to the President of the United States, because every bill, before it becomes a law, shall be presented to him. Thus he is said to possess legislative powers. Sir, the Convention observed, on this occasion, strict propriety of language: "If he approve the bill, when it is sent, he shall sign it, but if not, he shall return it;" but no bill passes in consequence of having his assent: therefore, he possesses no legislative authority.

The *effect* of this power, upon this subject, is merely this: if he disapproves a bill, two thirds of the legislature become necessary to pass it into a law, instead of a bare majority. And when two thirds are in favor of the bill, it becomes a law, not by his, but by authority of the two houses of the legislature. We are told, in the next place, by the honorable gentleman from Fayette, (Mr. Smilie,) that, in the different orders of mankind, there is that of a natural aristocracy. On some occasions there is a kind of magical expression, used to conjure up ideas that may create uneasiness and apprehension. I hope the meaning of the words is understood by the gentleman who used them. I have asked repeatedly of gentlemen to explain, but have not been able to obtain the explanations of what they meant by a consolidated government. They keep round and round about the thing, but never define. I ask now what is meant by a natural aristocracy. I am not at a loss for the etymological definition of the term; for, when we trace it to the language from which it is derived, an aristocracy means nothing more or less than a government of the best men in the community or those who are recommended by the words of the Constitution of Pennsylvania, where it is directed that the representatives should consist of those most noted for wisdom and virtue. Is there any danger in such representation? I shall never find fault that such characters are employed. How happy for us, when such characters can be obtained! If this is meant by a natural aristocracy,—and I know no other,—can it be objectionable that men should be employed 'hat are most noted for their virtue and talents? And are

attempts made to mark out these as the most improper persons for the public confidence?

I had the honor of giving a definition — and I believe it was a just one — of what is called an *aristocratic government*. It is a government where the supreme power is not retained by the people, but resides in a select body of men, who either fill up the vacancies that happen, by their own choice and election, or succeed on the principle of descent, or by virtue of territorial possessions, or some other qualifications that are not the result of personal properties. When I speak of personal properties, I mean the qualities of the head and the disposition of the heart.

We are told that the representatives will not be known to the people, nor the people to the representatives, because they will be taken from large districts, where they cannot be particularly acquainted. There has been some experience, in several of the states, upon this subject; and I believe the experience of all who had experience, demonstrates that the larger the district of election, the better the representation. It is only in remote corners of a government that little demagogues arise. Nothing but real weight of character can give a man real influence over a large district. This is remarkably shown in the commonwealth of Massachusetts. The members of the House of Representatives are chosen in very small districts; and such has been the influence of party cabal, and little intrigue in them, that a great majority seem inclined to show very little disapprobation of the conduct of the insurgents in that state.

The governor is chosen by the people at large, and that state is much larger than any district need be under the proposed Constitution. In their choice of their governor, they have had warm disputes; but, however warm the disputes, their choice only vibrated between the most eminent characters. Four of their candidates are well known—Mr. Hancock, Mr. Bowdoin, General Lincoln, and Mr. Goreham, the late president of Congress.

I apprehend it is of more consequence to be able to know the true interest of the people than their faces, and of more consequence still to have virtue enough to pursue the means of carrying that knowledge usefully into effect. And surely, when it has been thought, hitherto, that a representation, in Congress, of from five to two members, was sufficient to

represent the interest of this state, is it not more than sufficient to have ten members in that body — and those in a greater comparative proportion than heretofore? The citizens of Pennsylvania will be represented by eight, and the state by two. This, certainly, though not gaining enough, is gaining a good deal; the members will be more distributed through the state, being the immediate choice of the people, who hitherto have not been represented in that body. It is said, that the House of Representatives will be subject to corruption, and the *Senate* possess the means of corrupting, by the share they have in the appointment to office. This was not spoken in the soft language of attachment to government. It is, perhaps, impossible, with all the caution of legislators and statesmen, to exclude corruption and undue influence entirely from government. All that can be done, upon this subject, is done in the Constitution before you. Yet it behoves us to call out, and add every guard and preventive in our power. I think, sir, something very important, on this subject, is done in the present system; for it has been provided, effectually, that the man that has been bribed by an office shall have it no longer in his power to earn his wages. The moment he is engaged to serve the Senate, in consequence of their gift, he no longer has it in his power to sit in the House of Representatives; for “No representative shall, during the term for which he was elected, be appointed to any civil office, under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time.” And the following annihilates corruption of that kind: “And no person holding any office under the United States shall be a member of either house during his continuance in office.” So the mere acceptance of an office, as a bribe, effectually destroys the end for which it was offered. Was this attended to when it was mentioned that the members of the one house could be bribed by the other? “But the members of the Senate may enrich themselves,” was an observation made as an objection to this system.

As the mode of doing this has not been pointed out, I apprehend the objection is not much relied upon. The Senate are incapable of receiving any money, except what is paid them out of the public treasury. They cannot vote to themselves a single penny, unless the proposition originates from the other house. This objection, therefore, is visionary, like

the following one — “ that pictured group, that numerous host, and prodigious swarm of officers, which are to be appointed under the general government.” The gentlemen tell you that there must be judges of the supreme, and judges of the inferior courts, with all their appendages: there will be tax-gatherers swarming throughout the land. “ O !” say they, “ if we could enumerate the offices, and the numerous officers that must be employed every day in collecting, receiving, and comptrolling, the moneys of the United States, the number would be almost beyond imagination.”

I have been told, but I do not vouch for the fact, that there are, in one shape or another, more than a thousand persons, in this very state, who get their living by assessing and collecting our revenues from the other citizens. Sir, when this business of revenue is conducted on a general plan, we may be able to do the business of the thirteen states with an equal, nay, with a less number: instead of thirteen comptroller-generals, one comptroller will be sufficient. I apprehend that the number of officers, under this system, will be greatly reduced from the number now employed; for, as Congress can now do nothing effectually, the states are obliged to do every thing; and in this very point I apprehend that we shall be great gainers.

Sir, I confess I wish the *powers of the Senate* were not as they are. I think it would have been better if those powers had been distributed in other parts of the system. I mentioned some circumstances, in the forenoon, that I had observed on this subject. I may mention now, we may think ourselves very well off, sir, that things are as well as they are, and that that body is even so much restricted. But surely objections of this kind come with a bad grace from the advocates, or those who prefer the present Confederation, and who wish only to increase the powers of the present Congress. A single body, not constituted with checks, like the proposed one, who possess not only the power of making treaties, but executive powers, would be a perfect despotism; but further, these powers are, in the present Confederation, possessed without control.

As I mentioned before, so I will beg leave to repeat, that this Senate can do nothing without the concurrence of some other branch of the government. With regard to their concern in the appointment to offices, the President must

nominate before they can be chosen ; the President must acquiesce in that appointment. With regard to their power in forming treaties, they can make none ; they are only auxiliaries to the President. They must try all impeachments but they have no power to try any until presented by the House of Representatives ; and when I consider this subject, though I wish the regulation better, I think no danger to the liberties of this country can arise even from that part of the system. But these objections, I say, come with a bad grace from those who prefer the present Confederation, who think it only necessary to add more powers to a body organized in that form. I confess, likewise, that by combining those powers of trying impeachments, and making treaties, in the same body, it will not be so easy, as I think it ought to be, to call the senators to an account for any improper conduct in that business.

Those who proposed this system were not inattentive to do all they could. I admit the force of the observation made by the gentleman from Fayette, (Mr. Smilie,) that, when two thirds of the Senate concur in forming a bad treaty, it will be hard to procure a vote of two thirds against them, if they should be impeached. I think such a thing is not to be expected ; and so far they are without that *immediate* degree of responsibility which I think requisite to make this part of the work perfect. But this will not be always the case. When a member of the Senate shall behave criminally, the criminality will not expire with his office. The senators may be called to account after they shall have been changed, and the body to which they belonged shall have been altered. There is a rotation ; and every second year one third of the whole number go out. Every fourth year two thirds of them are changed. In six years the whole body is supplied by a new one. Considering it in this view, responsibility is not entirely lost. There is another view in which it ought to be considered, which will show that we have a greater degree of security. Though they may not be convicted on impeachment before the Senate, they may be tried by their country ; and if their criminality is established, the law will punish. A grand jury may present, a petty jury may convict, and the judges will pronounce the punishment. This is all that can be done under the present Confederation, for under it there is no power of impeachment ; even here, then, we gain

something. Those parts that are exceptionable, in this Constitution, are improvements on that concerning which so much pains are taken, to persuade us that it is preferable to the other.

The last observation respects the judges. It is said that, if they are to decide against the law, one house will impeach them, and the other will convict them. I hope gentlemen will show how this can happen ; for bare supposition ought not to be admitted as proof. The judges are to be impeached, because they decide an act null and void, that was made in defiance of the Constitution ! What House of Representatives would dare to impeach, or Senate to commit, judges for the performance of their duty ? These observations are of a similar kind to those with regard to the liberty of the press.

I will proceed to take some notice of those qualities in this Constitution that I think entitle it to our respect and favor. I have not yet done, sir, with the great principle on which it stands ; I mean the practical recognition of this doctrine — that, in the United States, the people retain the supreme power.

In giving a definition of the simple kinds of government known throughout the world, I had occasion to describe what I meant by a democracy ; and I think I termed it, that government in which the people retain the supreme power, and exercise it either collectively or by representation. This Constitution declares this principle, in its terms and in its consequences, which is evident from the manner in which it is announced. “We, the People of the United States.” After all the examination which I am able to give the subject, I view this as the only sufficient and most honorable basis, both for the people and government, on which our Constitution can possibly rest. What are all the contrivances of states, of kingdoms, and empires ? What are they all intended for ? They are all intended for man ; and our natural character and natural rights are certainly to take place, in preference to all artificial refinements that human wisdom can devise.

I am astonished to hear the ill-founded doctrine, that the states alone ought to be represented in the federal government ; these must possess sovereign authority, forsooth, and the people be forgot. No. Let us *reascend* to first princi

pl'es. That expression is not strong enough to do my ideas justice.

Let us *retain* first principles. The people of the United States are now in the possession and exercise of their original rights ; and while this doctrine is known, and operates, we shall have a cure for every disease.

I shall mention another good quality belonging to this system. In it the legislative, executive, and judicial powers are kept nearly independent and distinct. I express myself in this guarded manner, because I am aware of some powers that are blended in the Senate. They are but few ; and they are not dangerous. It is an exception ; yet that exception consists of but few instances, and none of them dangerous. I believe in no constitution for any country on earth is this great principle so strictly adhered to, or marked with so much precision and accuracy, as this. It is much more accurate than that which the honorable gentleman so highly extols : I mean, the constitution of England. There, sir, one branch of the legislature can appoint members of another. The king has the power of introducing members into the House of Lords. I have already mentioned that, in order to obtain a vote, twelve peers were poured into that house at one time. The operation is the same as might be under this Constitution, if the President had a right to appoint the members of the Senate. This power of the king extends into the other branch, where, though he cannot immediately introduce a member, yet he can do it remotely, by virtue of his prerogative, as he may create boroughs with power to send members to the House of Commons. The House of Lords form a much stronger exception to this principle than the Senate in this system ; for the House of Lords possess judicial powers — not only that of trying impeachments, but that of trying their own members, and civil causes, when brought before them from the courts of chancery and the other courts in England.

If we therefore consider this Constitution with regard to this special object, though it is not so perfect as I could wish, yet it is more perfect than any government that I know.

I proceed to another property, which I think will recommend it to those who consider the effects of beneficence and wisdom ; I mean the *division of this legislative authority* into two branches. I had an opportunity of dilating somewhat

on this subject before ; and as it is not likely to afford a subject of debate, I shall take no further notice of it than barely to mention it. The next good quality that I remark is, that the *executive authority is one*. By this means we obtain very important advantages. We may discover from history, from reason, and from experience, the security which this furnishes. The executive power is better to be trusted when it has no screen. Sir, we have a responsibility in the person of our President ; he cannot act improperly, and hide either his negligence or inattention ; he cannot roll upon any other person the weight of his criminality ; no appointment can take place without his nomination ; and he is responsible for every nomination he makes. We secure *vigor*. We well know what numerous executives are. We know there is neither vigor, decision, nor responsibility, in them. Add to all this, that officer is placed high, and is possessed of power far from being contemptible ; yet not a *single privilege* is annexed to his character ; far from being above the laws, he is amenable to them in his private character as a citizen, and in his public character by *impeachment*.

Sir, it has often been a matter of surprise, and frequently complained of even in Pennsylvania, that the *independence of the judges* is not properly secured. The servile dependence of the judges, in some of the states that have neglected to make proper provision on this subject, endangers the liberty and property of the citizen ; and I apprehend that, whenever it has happened that the appointment has been for a less period than during good behavior, this object has not been sufficiently secured ; for if, every five or seven years, the judges are obliged to make court for their appointment to office, they cannot be styled independent. This is not the case with regard to those appointed under the general government ; for the judges here shall hold their offices during good behavior. I hope no further objections will be taken against this part of the Constitution, the consequence of which will be, that private property, so far as it comes before their courts, and personal liberty, so far as it is not forfeited by crimes, will be guarded with firmness and watchfulness.

It may appear too professional to descend into observations of this kind ; but I believe that public happiness, personal

liberty, and private property, depend essentially upon the able and upright determinations of independent judges.

Permit me to make one more remark on the subject of the judicial department. Its objects are extended *beyond* the bounds or power of every particular state, and therefore must be proper objects of the general government. I do not recollect any instance where a case can come before the judiciary of the United States, that could possibly be determined by a particular state, except one — which is, where citizens of the same state claim lands under the grant of different states ; and in that instance, the power of the two states necessarily comes in competition ; wherefore there would be great impropriety in having it determined by either.

Sir, I think there is another subject with regard to which this Constitution deserves approbation. I mean the accuracy with which the *line is drawn* between the powers of the *general government* and those of the *particular state governments*. We have heard some general observations, on this subject, from the gentlemen who conduct the opposition. They have asserted that these powers are unlimited and undefined. These words are as easily pronounced as *limited* and *defined*. They have already been answered by my honorable colleague, (Mr. M'Kean ;) therefore I shall not enter into an explanation. But it is not pretended that the line is drawn with mathematical precision ; the inaccuracy of language must, to a certain degree, prevent the accomplishment of such a desire. Whoever views the matter in a true light, will see that the powers are as minutely enumerated and defined as was possible, and will also discover that the general clause, against which so much exception is taken, is nothing more than what was necessary to render effectual the particular powers that are granted.

But let us suppose — and the supposition is very easy in the minds of the gentlemen on the other side — that there is some difficulty in ascertaining where the true line lies. Are we therefore thrown into despair ? Are *disputes* between the *general government* and the *state governments* to be necessarily the consequence of inaccuracy ? I hope, sir, they will not be the enemies of each other, or resemble comets in conflicting orbits, mutually operating destruction ; but that their motion will be better represented by that of the

planetary system, where each part moves harmoniously within its proper sphere, and no injury arises by interference or opposition. Every part, I trust, will be considered as a part of the United States. Can any cause of distrust arise here? Is there any increase of risk? Or, rather, are not the enumerated powers as well defined here, as in the present Articles of Confederation?

Permit me to proceed to what I deem another excellency of this system: all authority, of every kind, *is derived by REPRESENTATION from the PEOPLE, and the DEMOCRATIC principle is carried into every part of the government.* I had an opportunity, when I spoke first, of going fully into an elucidation of this subject. I mean not now to repeat what I then said.

I proceed to another quality, that I think estimable in this system: *it secures, in the strongest manner, the right of suffrage.* Montesquieu, book 2d, chap. 2d, speaking of laws relative to democracy, says, —

“When the body of the people is possessed of the supreme power, this is called a *democracy*. When the supreme power is lodged in the hands of a part of the people, it is then an *aristocracy*.”

“In a democracy the people are in some respects the sovereign, and in others the subject.”

“There can be no exercise of sovereignty but by their suffrages, which are their own will. Now, the sovereign's will is the sovereign himself. The laws, therefore, which establish the right of suffrage, are fundamental to this government. And, indeed, it is as important to regulate, in a republic, in what manner, by whom, to whom, and concerning what, suffrages are to be given, as it is, in a monarchy, to know who is the prince, and after what manner he ought to govern.”

In this system, it is declared that the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature. This being made the criterion of the right of suffrage, it is consequently secured, because the same Constitution guaranties to every state in the Union a republican form of government. The right of suffrage is fundamental to republics.

Sir, there is another principle that I beg leave to mention. *Representation and direct taxation*, under this Constitution, are to be according to numbers. As this is a subject which I believe has not been gone into in this house, it will be worth while to show the sentiments of some respectable writers thereon. Montesquieu, in considering the requisites

in a confederate republic, book 9th, chap. 3d, speaking of Holland, observes, "It is difficult for the united states to be all of equal power and extent. The Lycian (*Strabo*, lib. 14.) republic was an association of twenty-three towns; the large ones had three votes in the common council, the middling ones two, and the small towns one. The Dutch republic consists of seven provinces, of different extent of territory, which have each one voice.

"The cities of Lycia (*Strabo*, lib. 14) contributed to the expenses of the state, according to the proportion of suffrages. The provinces of the United Netherlands cannot follow this proportion; they must be directed by that of their power.

"In *Lycia*, (*Strabo*, lib. 14,) the judges and town magistrates were elected by the common council, and according to the proportion already mentioned. In the republic of Holland, they are not chosen by the common council, but each town names its magistrates. Were I to give a model of an excellent confederate republic, I should pitch upon that of *Lycia*."

I have endeavored, in all the books that I have access to, to acquire some information relative to the *Lycian republic*; but its history is not to be found; the few facts that relate to it are mentioned only by *Strabo*; and however excellent the model it might present, we were reduced to the necessity of working without it. Give me leave to quote the sentiments of another author, whose peculiar situation and extensive worth throw a lustre on all he says. I mean Mr. *Necker*, whose ideas are very exalted, both in theory and practical knowledge, on this subject. He approaches the nearest to the truth in his calculations from experience, and it is very remarkable that he makes use of that expression. His words are, (*Necker on Finance*, vol. i. p. 308,) —

"Population can therefore be only looked on as an exact measure of comparison when the provinces have resources nearly equal; but even this imperfect rule of proportion ought not to be neglected; and of all the objects which may be subjected to a determined and positive calculation, that of the taxes, to the population, approaches nearest to the truth."

Another good quality in this Constitution is, that the members of the legislature cannot hold offices under the authority of this government. The operation of this, I apprehend, would be found to be very extensive, and very

salutary, in this country, to prevent those intrigues, those factions, that corruption, that would otherwise rise here, and have risen so plentifully in every other country. The reason why it is necessary in England to continue such influence, is, that the crown, in order to secure its own influence against two other branches of the legislature, must continue to bestow places; but those *places produce the opposition* which frequently runs so strong in the British Parliament.

Members who do not enjoy offices combine against those who do enjoy them. It is not from principle that they thwart the ministry in all its operations. No; their language is, Let us turn them out, and succeed to their places. The great source of corruption, in that country, is, that persons may hold offices under the crown, and seats in the legislature, at the same time.

I shall conclude, at present, — and I have endeavored to be as concise as possible, — with mentioning that, in my humble opinion, the powers of the general government are necessary and well defined; that the restraints imposed on it, and those imposed on the state governments, are rational and salutary; and that it is entitled to the approbation of those for whom it was intended.

I recollect, on a former day, the honorable gentleman from Westmoreland, (Mr. Findley,) and the honorable gentleman from Cumberland, (Mr. Whitehill,) took exceptions against the 1st clause of the 9th sect., art. 1, arguing, very unfairly, that, because Congress might impose a tax or duty of ten dollars on the importation of slaves, within any of the United States, Congress might therefore permit slaves to be imported within this state, contrary to its laws. I confess, I little thought that this part of the system would be excepted to.

I am sorry that it could be extended no farther; but so far as it operates, it presents us with the pleasing prospect that the rights of mankind will be acknowledged and established throughout the Union.

If there was no other lovely feature in the Constitution but this one, it would diffuse a beauty over its whole countenance. Yet the lapse of a few years, and Congress will have power to exterminate slavery from within our borders.

How would such a delightful prospect expand the breast of

a benevolent and philanthropic European! Would he cavil at an expression? catch at a phrase? No, sir, that is only reserved for the gentleman on the other side of your chair to do. What would be the exultation of that great man—whose name I have just now mentioned, we may learn from the following sentiments on this subject; they cannot be expressed so well as in his own words (vol. 1, page 329.)

“The colonies of France contain, as we have seen, near five hundred thousand slaves; and it is from the number of these wretches the inhabitants set a value on their plantations. What a fatal prospect, and how profound a subject for reflection! Alas! how inconsequent we are, both in our morality and our principles! We preach up humanity, and yet go every year to bind in chains twenty thousand natives of Africa. We call the Moors barbarians and ruffians, because they attack the liberty of Europeans at the risk of their own; yet these Europeans go, without danger, and as mere speculators, to purchase slaves, by gratifying the cupidity of their masters, and excite all those bloody scenes which are the usual preliminaries of this traffic! In short, we pride ourselves on the superiority of man, and it is with reason that we discover this superiority in the wonderful and mysterious unfolding of the intellectual faculties; and yet the trifling difference in the hair of the head, or in the color of the epidermis, is sufficient to change our respect into contempt, and to engage us to place beings like ourselves in the rank of those animals devoid of reason, whom we subject to the yoke, that we may make use of their strength and of their instinct at command.

“I am sensible, and I grieve at it, that these reflections, which others have made much better than I, are unfortunately of very little use! The necessity of supporting sovereign power has its peculiar laws, and the wealth of nations is one of the foundations of this power: thus the sovereign who should be the most thoroughly convinced of what is due to humanity, would not singly renounce the service of slaves in his colonies: time alone could furnish a population of free people to replace them, and the great difference that would exist in the price of labor would give so great an advantage to the nation that should adhere to the old custom, that the others would soon be discouraged in wishing to be more virtuous. And yet, would it be a chimerical project to propose a general compact, by which all the European nations should unanimously agree to abandon the traffic of African slaves! they would, in that case, find themselves exactly in the same proportion, relative to each other, as at present; for it is only on comparative riches that the calculations of power are founded.

“We cannot as yet indulge such hopes; statesmen in general think that every common idea must be a low one; and since the morals of private people stand in need of being curbed and maintained by the laws, we ought not to wonder if those of sovereigns conform to their independence.

“The time may nevertheless arrive, when, fatigued of that ambition which agitates them, and of the continual rotation of the same anxieties and the same plans, they may turn their views to the great principles of humanity; and if the present generation is to be witness of this happy revolution, they may at least be allowed to be unanimous in offering up

their vows for the perfection of the social virtues, and for the progress of public beneficial institutions."

These are the enlarged sentiments of that great man.

Permit me to make a single observation, in this place, on the restraints placed on the state governments. If only the following lines were inserted in this Constitution, I think it would be worth our adoption: "No state shall hereafter *emit bills of credit*; make any thing but gold and silver coin a *tender* in payment of debts; pass any bills of attainder, ex post facto law, or *law impairing the obligation of contracts*." Fatal experience has taught us, dearly taught us, the value of these restraints. What is the consequence even at this moment? It is true, we have no tender law in Pennsylvania; but the moment you are conveyed across the Delaware, you find it haunt your journey, and follow close upon your heels. The paper passes commonly at twenty-five or thirty per cent. discount. How insecure is property!

These are a few of those properties in this system, that, I think, recommend it to our serious attention, and will entitle it to receive the adoption of the United States. Others might be enumerated, and others still will probably be disclosed by experience.

FRIDAY, December 7, 1787, A. M.—Mr. WILSON. This is the first time that the article respecting the *judicial department* has come directly before us. I shall therefore take the liberty of making such observations as will enable honorable gentlemen to see the extent of the views of the Convention in forming this article, and the extent of its probable operation.

This will enable gentlemen to bring before this house their objections more pointedly than, without any explanation, could be done. Upon a distinct examination of the different powers, I presume it will be found that not one of them is unnecessary. I will go farther—there is not one of them but will be discovered to be of such a nature as to be attended with very important advantages. I shall beg leave to premise one remark—that the Convention, when they formed this system, did not expect they were to deliver themselves, their relations, and their posterity, into the hands of such men as are described by the honorable gentlemen in opposition. They did not suppose that the legislature, under this Constitution, would be an *association of demons*. They

thought that a proper attention would be given, by the citizens of the United States, at the general election for members to the House of Representatives; they also believed that the particular states would nominate as good men as they have heretofore done, to represent them in the Senate. If they should now do otherwise, the fault will not be in Congress, but in the people or states themselves. I have mentioned, oftener than once, that for a people wanting to themselves there is no remedy.

The Convention thought further, (for on this very subject there will appear caution, instead of imprudence, in their transactions;) they considered, that, if suspicions are to be entertained, they are to be entertained with regard to the objects in which government have separate interests and separate views from the interest and views of the people. To say that officers of government will oppress, when nothing can be got by oppression, is making an inference, bad as human nature is, that cannot be allowed. When persons can derive no advantage from it, it can never be expected they will sacrifice either their duty or their popularity.

Whenever the general government can be a party against a citizen, the trial is guarded and secured in the Constitution itself, and therefore it is not in its power to oppress the citizen. In the case of treason, for example, though the prosecution is on the part of the United States, yet the Congress can neither define nor try the crime. If we have recourse to the history of the different governments that have hitherto subsisted, we shall find that a very great part of their tyranny over the people has arisen from the extension of the definition of treason. Some very remarkable instances have occurred, even in so free a country as England. If I recollect right, there is one instance that puts this matter in a very strong point of view. A person possessed a favorite buck, and, on finding it killed, wished the horns in the belly of the person who killed it. This happened to be the king: the injured complainant was tried, and convicted of treason for wishing the king's death.

I speak only of free governments; for, in despotic ones, treason depends entirely upon the will of the prince. Let this subject be attended to, and it will be discovered where the dangerous power of the government operates on the oppression of the people. Sensible of this, the Convention

has guarded the people against it, by a particular and accurate definition of treason.

It is very true that trial by jury is not mentioned in civil cases; but I take it that it is very improper to infer from hence that it was not meant to exist under this government. Where the people are represented, where the interest of government cannot be separate from that of the people, (and this is the case in trial between citizen and citizen,) the power of making regulations with respect to the mode of trial may certainly be placed in the legislature; for I apprehend that the legislature will not do wrong in an instance from which they can derive no advantage. These were not all the reasons that influenced the Convention to leave it to the future Congress to make regulations on this head.

By the Constitution of the different states, it will be found that no particular mode of trial by jury could be discovered that would suit them all. The manner of summoning jurors, their qualifications, of whom they should consist, and the course of their proceedings, are all different in the different states; and I presume it will be allowed a good general principle, that, in carrying into effect the laws of the general government by the judicial department, it will be proper to make the regulations as agreeable to the habits and wishes of the particular states as possible; and it is easily discovered that it would have been impracticable, by any general regulation, to give satisfaction to all. We must have thwarted the custom of eleven or twelve to have accommodated any one. Why do this when there was no danger to be apprehended from the omission? We could not go into a particular detail of the manner that would have suited each state.

Time, reflection, and experience, will be necessary to suggest and mature the proper regulations on this subject; time and experience were not possessed by the Convention; they left it therefore to be particularly organized by the legislature — the representatives of the United States — from time to time, as should be most eligible and proper. Could they have done better?

I know, in every part where opposition has arisen, what a handle has been made to this objection; but I trust, upon examination, it will be seen that more could not have been done with propriety. Gentlemen talk of bills of rights.

What is the meaning of this continual clamor, after what has been urged? Though it may be proper, in a single state, whose legislature calls itself the sovereign and supreme power, yet it would be absurd in the body of the people, when they are delegating from among themselves persons to transact certain business, to add an enumeration of those things which they are not to do. "But trial by jury is secured in the bill of rights of Pennsylvania; the parties have a right to trials by jury, which *ought* to be held sacred." And what is the consequence? There have been more violations of this right in Pennsylvania, since the revolution, than are to be found in England in the course of a century.

I hear no objection made to the tenure by which the judges hold their offices; it is declared that the judges shall hold them during good behavior;—nor to the security which they will have for their salaries; they shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

The article respecting the judicial department is objected to as going too far, and is supposed to carry a very indefinite meaning. Let us examine this: "The judicial power shall extend to all cases, in law and equity, *arising under this Constitution and the laws of the United States.*" Controversies may certainly arise under this Constitution and the laws of the United States, and is it not proper that there should be judges to decide them? The honorable gentleman from Cumberland (Mr. Whitehill) says that laws may be made inconsistent with the Constitution; and that therefore the powers given to the judges are dangerous. For my part, Mr. President, I think the contrary inference true. If a law should be made inconsistent with those powers vested by this instrument in Congress, the judges, as a consequence of their independence, and the particular powers of government being defined, will declare such law to be null and void; for the power of the Constitution predominates. Any thing, therefore, that shall be enacted by Congress contrary thereto, will not have the force of law.

The judicial power extends to all cases arising under treaties made, or which shall be made, by the United States. I shall not repeat, at this time, what has been said with regard to the power of the states to make treaties; it cannot be controverted, that, when made, they ought to be observed

But it is highly proper that this regulation should be made ; for the truth is, — and I am sorry to say it, — that, in order to prevent the payment of British debts, and from other causes, our treaties have been violated, and violated, too, by the express laws of several states in the Union. Pennsylvania — to her honor be it spoken — has hitherto done no act of this kind ; but it is acknowledged on all sides, that many states in the Union have infringed the treaty ; and it is well known that, when the minister of the United States made a demand of Lord Carmarthen of a surrender of the western posts, he told the minister, with truth and justice, “The treaty under which you claim those possessions has not been performed on your part ; until that is done, those possessions will not be delivered up.” This clause, sir, will show the world that we make the faith of treaties a constitutional part of the character of the United States ; that we secure its performance no longer nominally, for the judges of the United States will be enabled to carry it into effect, let the legislatures of the different states do what they may.

The power of judges extends to all cases affecting ambassadors, other public ministers, and consuls. I presume very little objection will be offered to this clause ; on the contrary, it will be allowed proper and unexceptionable.

This will also be allowed with regard to the following clause : “ *all cases of admiralty and maritime jurisdiction.*”

The next is, “ *to controversies to which the United States shall be a party.*” Now, I apprehend it is something very incongruous, that, because the United States are a party, it should be urged, as an objection, that their judges ought not to decide, when the universal practice of all nations has, and unavoidably must have, admitted of this power. But, say the gentlemen, the sovereignty of the states is destroyed, if they should be engaged in a controversy with the United States, because a suitor in a court must acknowledge the jurisdiction of that court, and it is not the custom of sovereigns to suffer their names to be made use of in this manner. The answer is plain and easy : the government of each state ought to be subordinate to the government of the United States.

“ *To controversies between two or more states.*” This power is vested in the present Congress ; but they are unable, as

I have already shown, to enforce their decisions. The additional power of carrying their decree into execution, we find, is therefore necessary, and I presume no exception will be taken to it.

“Between a state and citizens of another state.” When this power is attended to, it will be found to be a necessary one. Impartiality is the leading feature in this Constitution; it pervades the whole. When a citizen has a controversy with another state, there ought to be a tribunal where both parties may stand on a just and equal footing.

“Between citizens of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects.” This part of the jurisdiction, I presume, will occasion more doubt than any other part; and, at first view, it may seem exposed to objections well founded and of great weight; but I apprehend this can be the case only at first view. Permit me to observe here, with regard to this power, or any other of the foregoing powers given to the federal court, that they are not exclusively given. In all instances, the parties may commence suits in the courts of the several states. Even the United States may submit to such decision if they think proper. Though the citizens of a state, and the citizens or subjects of foreign states, may sue in the federal court, it does not follow that they must sue. These are the instances in which the jurisdiction of the United States may be exercised; and we have all the reason in the world to believe that it will be exercised impartially; for it would be improper to infer that the judges would abandon their duty, the rather for being independent. Such a sentiment is contrary to experience, and ought not to be hazarded. If the people of the United States are fairly represented, and the President and Senate are wise enough to choose men of abilities and integrity for judges, there can be no apprehension, because, as I mentioned before, the government can have no interest in injuring the citizens.

But when we consider the matter a little further, is it not necessary, if we mean to restore either public or private credit, that foreigners, as well as ourselves, have a just and impartial tribunal to which they may resort? I would ask how a merchant must feel to have his property lie at the mercy of the laws of Rhode Island. I ask, further, How will a creditor feel who has his debts at the mercy of tender laws in other

states? It is true that, under this Constitution, these particular iniquities may be restrained in future; but, sir, there are other ways of avoiding payment of debts. There have been instalment acts, and other acts of a similar effect. Such things, sir, destroy the very sources of credit.

Is it not an important object to extend our manufactures and our commerce? This cannot be done, unless a proper security is provided for the regular discharge of contracts. This security cannot be obtained, unless we give the power of deciding upon those contracts to the general government.

I will mention, further, an object that I take to be of particular magnitude, and I conceive these regulations will produce its accomplishment. The object, Mr. President, that I allude to, is *the improvement of our domestic navigation*, the instrument of trade between the several states. Private credit, which fell to decay from the destruction of public credit, by a too inefficient general government, will be restored; and this valuable intercourse among ourselves must give an increase to those useful improvements that will astonish the world. At present, how are we circumstanced! Merchants of eminence will tell you that they cannot trust their property to the laws of the state in which their correspondents live. Their friend may die, and may be succeeded by a representative of a very different character. If there is any particular objection that did not occur to me on this part of the Constitution, gentlemen will mention it; and I hope, when this article is examined, it will be found to contain nothing but what is proper to be annexed to the general government. The next clause, so far as it gives original jurisdiction in cases affecting ambassadors, I apprehend, is perfectly unexceptionable.

It was thought proper to give the citizens of foreign states full opportunity of obtaining justice in the general courts, and this they have by its appellate jurisdiction; therefore, in order to restore credit with those foreign states, that part of the article is necessary. I believe the alteration that will take place in their minds when they learn the operation of this clause, will be a great and important advantage to our country; nor is it any thing but justice: they ought to have the same security against the state laws that may be made, that the citizens have; because regulations ought to be equally just in the one case as in the other. Further, it is

necessary in order to preserve peace with foreign nations. Let us suppose the case, that a wicked law is made in some one of the states, enabling a debtor to pay his creditor with the fourth, fifth, or sixth part of the real value of the debt, and this creditor, a foreigner, complains to his prince or sovereign, of the injustice that has been done him. What can that prince or sovereign do? Bound by inclination, as well as duty, to redress the wrong his subject sustains from the hand of perfidy, he cannot apply to the particular guilty state, because he knows that, by the Articles of Confederation, it is declared that no state shall enter into treaties. He must therefore apply to the United States; the United States must be accountable. "My subject has received a flagrant injury: do me justice, or I will do myself justice." If the United States are answerable for the injury, ought they not to possess the means of compelling the faulty state to repair it? They ought; and this is what is done here. For now, if complaint is made in consequence of such injustice, Congress can answer, "Why did not your subject apply to the General Court, where the unequal and partial laws of a particular state would have had no force?"

In two cases the Supreme Court has original jurisdiction — that affecting ambassadors, and when a state shall be a party. It is true it has appellate jurisdiction in more, but it will have it under such restrictions as the Congress shall ordain. I believe that any gentleman, possessed of experience or knowledge on this subject, will agree that it was impossible to go further with any safety or propriety, and that it was best left in the manner in which it now stands.

"In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact." The jurisdiction as to fact may be thought improper; but those possessed of information on this head see that it is necessary. We find it essentially necessary from the ample experience we have had in the courts of admiralty with regard to captures. Those gentlemen who, during the late war, had their vessels retaken, know well what a poor chance they would have had when those vessels were taken in their states and tried by juries, and in what a situation they would have been if the Court of Appeals had not been possessed of authority to reconsider and set aside the verdicts of those juries. Attempts were made by some

of the states to destroy this power; but it has been confirmed in every instance.

There are other cases in which it will be necessary; and will not Congress better regulate them, as they rise from time to time, than could have been done by the Convention? Besides, if the regulations shall be attended with inconvenience, the Congress can alter them as soon as discovered. But any thing done in Convention must remain unalterable but by the power of the citizens of the United States at large.

I think these reasons will show that the powers given to the Supreme Court are not only safe, but constitute a wise and valuable part of the system.

TUESDAY, *December* 11, 1787, A. M.—Mr. WILSON. Three weeks have now elapsed since this Convention met. Some of the delegates attended on Tuesday, the 20th November; a great majority within a day or two afterwards; and all but one on the 4th day. We have been since employed in discussing the business for which we are sent here. I think it will now become evident to every person who takes a candid view of our discussions, that it is high time our proceedings should draw towards a *conclusion*.

Perhaps our debates have already continued as long, nay, longer than is sufficient for every good purpose. The business which we were intended to perform is necessarily reduced to a very narrow compass. The single question to be determined is, Shall we assent to and ratify the Constitution proposed?

As *this* is the *first* state whose Convention has met on the subject, and as the subject itself is of very great importance, not only to Pennsylvania, but to the United States, it was thought proper fairly, openly, and candidly to canvass it. This has been done. You have heard, Mr. President, from day to day, and from week to week, the objections that could be offered from any quarter. We have heard these objections once: we have heard a great number of them repeated much oftener than once. Will it answer any valuable end, sir, to protract these debates longer? I suppose it will not. I apprehend it may serve to promote very pernicious and destructive purposes. It may, perhaps, be insinuated to other states, and even to distant parts of this state, by people in opposition to this system, that the expediency of adopting it is at most very doubtful, and that the business lingers among the members of the Convention

This would not be a true representation of the fact ; for there is the greatest reason to believe that there is a very considerable majority who do not hesitate to ratify the Constitution. We were sent here to express the voice of our constituents on the subject, and I believe that many of them expected to hear the echo of that voice before this time.

When I consider the attempts that have been made on this floor, and the many misrepresentations of what has been said among us that have appeared in the public papers, printed in this city, I confess that I am induced to suspect that opportunity may be taken to pervert and abuse the principles on which the friends of this Constitution act. If attempts are made here, will they not be repeated when the distance is greater, and the means of information fewer ? Will they not at length produce an uneasiness, for which there is, in fact, no cause ? Ought we not to prohibit any such uses being made of the continuance of our deliberations ? We do not wish to preclude debate : of this our conduct has furnished the most ample testimony. The members in opposition have not been prevented a repetition of all their objections that they could urge against this plan.

The honorable gentleman from Fayette, (Mr. Smilie,) the other evening, claimed for the minority the merit of contending for the rights of mankind ; and he told us that it has been the practice of all ages to treat such minorities with contempt ; he further took the liberty of observing, that, if the majority had the power, they do not want the inclination, to consign the minority to punishment. I know that claims, self-made, form no small part of the merit to which we have heard undisguised pretences ; but it is one thing to claim, and it is another thing, very different indeed, to support that claim. The minority, sir, are contending for the rights of mankind ; what, then, are the majority contending for ? If the minority are contending for the rights of mankind, the majority must be contending for the doctrines of tyranny and slavery. Is it probable that that is the case ? Who are the majority in this assembly ? — Are they not the people ? are they not the representatives of the people, as well as the minority ? Were they not elected by the people, as well as the minority ? Were they not elected by the greater part of the people ? Have we a single right separate from the rights of the people ? Can we forge fetters

for others that will not be clasped round our own limbs? Can we make heavy chains that shall not cramp the growth of our own posterity? On what fancied distinction shall the minority assume to themselves the merit of contending for the rights of mankind?

Sir, if the system proposed by the late Convention, and the conduct of its advocates who have appeared in this house, deserve the declarations and insinuations that have been made concerning them, well may we exclaim, "Ill-fated America! thy crisis was approaching! perhaps it was come! Thy various interests were neglected—thy most sacred rights were insecure. Without a government, without energy, without confidence internally, without respect externally, the advantages of society were lost to thee! In such a situation, distressed, but not despairing, thou desiredst to reassume thy native vigor, and to lay the foundation of future empire. Thou selectedst a number of thy sons, to meet together for the purpose. The selected and honored characters met; but, horrid to tell, they not only consented, but they combined in an aristocratic system, calculated and intended to enslave their country! Unhappy Pennsylvania! thou, as a part of the Union, must share in its unfortunate fate; for when this system, after being laid before thy citizens, comes before the delegates selected by them for its consideration, there are found but *three* of the numerous members that have virtue enough to raise their voices in support 'of the rights of mankind!" America, particularly Pennsylvania, must be ill-starred, indeed, if this is a true state of the case. I trust we may address our country in far other language.

"Happy America! thy crisis was indeed alarming, but thy situation was not desperate. We had confidence in our country; though, on whichever side we turned, we were presented with scenes of distress. Though the jarring interests of the various states, and the different habits and inclinations of their inhabitants, all lay in the way, and rendered our prospect gloomy and discouraging indeed, yet such were the generous and mutual sacrifices offered up, that, amidst *forty-two* members, who represented twelve of the United States, there were only *three* who did not attest the instrument, as a confirmation of its goodness. Happy Pennsylvania! this plan has been laid before thy citizens for

consideration; they have sent delegates to express their voice; and listen — with rapture listen! — from only *three* opposition has been heard against it.”

The singular unanimity that has attended the whole progress of their business, will, in the minds of those considerate men who have not had opportunity to examine the general and particular interest of their country, prove, to their satisfaction, that it is an excellent Constitution, and worthy to be adopted, ordained, and established, by the people of the United States.

After having viewed the arguments drawn from probability, whether this is a good or a bad system, whether those who contend for it, or those who contend against it, contend for the rights of mankind, let us step forward and examine the fact.

We were told, some days ago, by the honorable gentleman from Westmoreland, (Mr. Findley,) when speaking of this system and its objects, that the Convention, no doubt, thought they were forming a compact, or contract, of the greatest importance. Sir, I confess I was much surprised, at so late a stage of the debate, to hear such principles maintained. It was a matter of surprise to see the great leading principle of this system still so very much misunderstood. “The Convention, no doubt, thought they were forming a *contract*!” I cannot answer for what every member thought; but I believe it cannot be said that they thought they were making a contract, because I cannot discover the least trace of a compact in that system. There can be no compact unless there are more parties than one. It is a new doctrine that one can make a compact with himself. “The Convention were forming compacts!” With whom? I know no bargains that were made there. I am unable to conceive who the parties could be. The state governments make a bargain with one another; that is the doctrine that is endeavored to be established by gentlemen in opposition, — that state sovereignties wish to be represented! But far other were the ideas of the Convention, and far other are those conveyed in the system itself.

As this subject has been often mentioned, and as often misunderstood, it may not be improper to take some further notice of it. This, Mr. President, is not a government founded upon compact; it is founded upon the power of

the people They express in their name and their authority — “*We, the people, do ordain and establish,*” &c.; from their ratification alone it is to take its constitutional authenticity; without that, it is no more than *tabula rasa*.

I know very well all the common-place rant of state sovereignties, and that government is founded in original compact. If that position was examined, it will be found not to accede very well with the true principle of free government. It does not suit the language or genius of the system before us. I think it does not accord with experience, so far as I have been able to obtain information from history.

The greatest part of governments have been founded on conquest: perhaps a few early ones may have had their origin in paternal authority. Sometimes a family united, and that family afterwards extended itself into a community. But the greatest governments which have appeared on the face of the globe have been founded in conquest. The great empires of Assyria, Persia, Macedonia, and Rome, were all of this kind. I know well that in Great Britain, since the revolution, it has become a principle that the constitution is founded in contract; but the form and time of that contract, no writer has yet attempted to discover. It was, however, recognized at the time of the revolution, therefore is politically true. But we should act very imprudently to consider our liberties as placed on such foundation.

If we go a little further on this subject, I think we shall see that the doctrine of original compact cannot be supported consistently with the best principles of government. If we admit it, we exclude the idea of amendment; because a contract once entered into between the governor and governed becomes obligatory, and cannot be altered but by the mutual consent of both parties. The citizens of united America, I presume, do not wish to stand on that footing with those to whom, from convenience, they please to delegate the exercise of the general powers necessary for sustaining and preserving the Union. They wish a principle established, by the operation of which the legislatures may feel the direct authority of the people. The people, possessing that authority, will continue to exercise it by amending and improving their own work. This Constitution may be found to have defects in it; hence amendments may

become necessary; but the idea of a government founded on contract destroys the means of improvement. We hear it every time the gentlemen are up, "Shall we violate the Confederation, which directs every alteration that is thought necessary to be established by the state legislatures only!" Sir, those gentlemen must ascend to a higher source: the people fetter themselves by no contract. If your state legislatures have cramped themselves by compact, it was done without the authority of the people, who alone possess the supreme power.

I have already shown that this system is not a compact, or contract; the system itself tells you what it is; it is an ordinance and establishment of the people. I think that the force of the introduction to the work must by this time have been felt. It is not an unmeaning flourish. The expressions declare, in a practical manner, the principle of this Constitution. It is ordained and established by the people themselves; and we, who give our votes for it, are merely the proxies of our constituents. We sign it as their attorneys, and, as to ourselves, we agree to it as individuals.

We are told, by honorable gentlemen in opposition, "that the present Confederation should have been continued, but that additional powers should have been given to it; that such was the business of the late Convention, and that they had assumed to themselves the power of proposing another in its stead; and that which is proposed is such a one as was not expected by the legislature nor by the people." I apprehend this would have been a very insecure, very inadequate, and a very pernicious mode of proceeding. Under the present Confederation, Congress certainly do not possess sufficient power; but one body of men we know they are; and were they invested with additional powers, they must become dangerous. Did not the honorable gentleman himself tell us that the powers of government, vested either in one man or one body of men, formed the very description of tyranny? To have placed in the present the legislative, the executive, and judicial authority, all of which are essential to the general government, would indubitably have produced the severest despotism. From this short deduction, one of these two things must have appeared to the Convention, and must appear to every man who is at the pains of thinking on the subject. It was indispensably ne-

cessary either to make a new distribution of the powers of government, or to give such powers to one body of men as would constitute a tyranny. If it is proper to avoid tyranny, it becomes requisite to avoid placing additional powers in the hands of a Congress constituted like the present; hence the conclusion is warranted, that a different organization ought to take place.

Our next inquiry ought to be, whether this is the most proper disposition and organization of the necessary powers. But before I consider this subject, I think it proper to notice one sentiment, expressed by an honorable gentleman from the county of Cumberland, (Mr. Whitehill.) He asserts that the extent of the government is too great, and this system cannot be executed. What is the consequence, if this assertion is true? It strikes directly at the root of the Union.

I admit, Mr. President, there are great difficulties in adapting a system of good and free government to the extent of our country. But I am sure that our interests, as citizens, as states, and as a nation, depend essentially upon a union. This Constitution is proposed to accomplish that great and desirable end. Let the experiment be made; let the system be fairly and candidly tried, before it is determined that it cannot be executed.

I proceed to another objection; for I mean to answer those that have been suggested since I had the honor of addressing you last week. It has been alleged, by honorable gentlemen, that this general government possesses powers for internal purposes, and that the general government cannot exercise internal powers. The honorable member from Westmoreland (Mr. Findley) dilates on this subject, and instances the opposition that was made by the colonies against Great Britain, to prevent her imposing internal taxes or excises. And before the federal government will be able to impose the one, or obtain the other, he considers it necessary that it should possess power for every internal purpose.

Let us examine these objections: If this government does not possess internal as well as external power, and that power for internal as well as external purposes, I apprehend that all that has hitherto been done must go for nothing. I apprehend a government that cannot answer the purposes for which it was intended is not a government for this country. I know that Congress, under the present Articles of

Confederation, possess no internal power, and we see the consequences: they can recommend—they can go further, they can make requisitions; but there they must stop; for, as far as I recollect, after making a law, they cannot take a single step towards carrying it into execution. I believe it will be found, in experience, that, with regard to the exercise of internal powers, the general government will not be unnecessarily rigorous. The future collection of the duties and imposts will, in the opinion of some, supersede the necessity of having recourse to internal taxation. The United States will not, perhaps, be often under the necessity of using this power at all; but if they should, it will be exercised only in a moderate degree. The good sense of the citizens of the United States is not to be alarmed by the picture of taxes collected at the point of the bayonet. There is no more reason to suppose that the delegates and representatives in Congress, any more than the legislature of Pennsylvania, or any other state, will act in this manner. Insinuations of this kind, made against one body of men, and not against another, though both the representatives of the people, are not made with propriety; nor will they have the weight of argument. I apprehend the greatest part of the revenue will arise from external taxation. But certainly it would have been very unwise in the late Convention to have omitted the addition of the other powers; and I think it would be very unwise in this Convention to refuse to adopt this Constitution, because it grants Congress power to lay and collect taxes, for the purpose of providing for the common defence and general welfare of the United States.

What is to be done to effect these great purposes, if an impost should be found insufficient? Suppose a war was suddenly declared against us by a foreign power, possessed of a formidable navy; our navigation would be laid prostrate, our imposts must cease; and shall our existence as a nation depend upon the peaceful navigation of our seas? A strong exertion of maritime power, on the part of an enemy, might deprive us of these sources of revenue in a few months. It may suit honorable gentlemen, who live at the western extremity of this state, that they should contribute nothing, by internal taxes, to the support of the general government. They care not what restraints are laid upon our commerce; for what is the commerce of Philadelphia to the inhabitants on

the other side of the Alleghany Mountains? But though it may suit them, it does not suit those in the lower part of the state, who are by far the most numerous. Nor can we agree that our safety should depend altogether upon a revenue arising from commerce.

Excise may be a necessary mode of taxation; it takes place in most states already.

The capitation tax is mentioned as one of those that are exceptionable. In some states, that mode of taxation is used; but I believe, in many, it would be received with great reluctance; there are one or two states where it is constantly in use, and without any difficulties and inconveniences arising from it. An excise, in its very principles, is an improper tax, if it could be avoided; but yet it has been a source of revenue in Pennsylvania, both before the revolution and since; during all which time we have enjoyed the benefit of free government.

I presume, sir, that the executive powers of government ought to be commensurate with the government itself, and that a government which cannot act in every part is, so far, defective. Consequently, it is necessary that Congress possess powers to tax internally, as well as externally.

It is objected to this system, that under it there is no sovereignty left in the state governments. I have had occasion to reply to this already; but I should be very glad to know at what period the state governments became possessed of the supreme power. On the principle on which I found my arguments, — and that is, the principle of this Constitution, — the supreme power resides in the people. If they choose to indulge a part of their sovereign power to be exercised by the state governments, they may. If they have done it, the states were right in exercising it; but if they think it no longer safe or convenient, they will resume it, or make a new distribution, more likely to be productive of that good which ought to be our constant aim.

The powers both of the general government and the state governments, under this system, are acknowledged to be so many emanations of power from the people. The great object now to be attended to, instead of disagreeing about who shall possess the supreme power, is, to consider whether the present arrangement is well calculated to promote and secure the tranquillity and happiness of our common country.

These are the dictates of sound and unsophisticated sense, and what ought to employ the attention and judgment of this honorable body.

We are next told by the honorable gentleman in opposition, (as indeed we have been, from the beginning of the debates in this Convention, to the conclusion of their speeches yesterday,) that this is a consolidated government, and will abolish the state governments.

Definitions of a consolidated government have been called for; the gentlemen gave us what they termed definition, but it does not seem to me, at least, that they have as yet expressed clear ideas upon that subject. I will endeavor to state their different ideas upon this point. The gentleman from Westmoreland, (Mr. Findley,) when speaking on this subject, says that he means, by a consolidation, that government which puts the thirteen states into one.

The honorable gentleman from Fayette (Mr. Smilie) gives you this definition: "What I mean by a consolidated government, is one that will transfer the sovereignty from the state governments to the general government."

The honorable member from Cumberland, (Mr. Whitehill,) instead of giving you a definition, sir, tells you again, that "it is a consolidated government, and we have proved it so."

These, I think, sir, are the different descriptions given to us of a consolidated government. As to the first, that it is a consolidated government, that puts the thirteen United States into one, — if it is meant that the general government will destroy the governments of the states, I will admit that such a government would not suit the people of America. It would be improper for this country, because it could not be proportioned to its extent, on the principles of freedom. But that description does not apply to the system before you. This, instead of placing the state governments in jeopardy, is founded on their existence. On this principle its organization depends; it must stand or fall, as the state governments are secured or ruined. Therefore, though this may be a very proper description of a consolidated government, yet it must be disregarded, as inapplicable to the proposed Constitution. It is not treated with decency when such insinuations are offered against it.

The honorable gentleman (Mr. Smilie) tells you that a consolidated government "is one that will transfer the sovereignty from the state governments to the general government." Under this system, the sovereignty is not in the possession of the governments, therefore it cannot be transferred from them to the general government; so that in no point of view of this definition can we discover that it applies to the present system.

In the exercise of its powers will be insured the exercise of their powers to the state governments; it will insure peace and stability to them; their strength will increase with its strength; their growth will extend with its growth.

Indeed, narrow minds — and some such there are in every government — narrow minds and intriguing spirits will be active in sowing dissensions and promoting discord between them. But those whose understandings and whose hearts are good enough to pursue the general welfare, will find that what is the interest of the whole, must, on the great scale, be the interest of every part. It will be the duty of a state, as of an individual, to sacrifice her own convenience to the general good of the Union.

The next objection that I mean to take notice of is, that the powers of the several parts of this government are not kept as distinct and independent as they ought to be. I admit the truth of this general sentiment. I do not think that, in the powers of the Senate, the distinction is marked with so much accuracy as I wished, and still wish; but yet I am of opinion that real and effectual security is obtained, which is saying a great deal. I do not consider this part as wholly unexceptionable; but even where there are defects in this system, they are improvements upon the old. I will go a little further; though, in this system, the distinction and independence of power is not adhered to with entire theoretical precision, yet it is more strictly adhered to than in any other system of government in the world. In the Constitution of Pennsylvania, the executive department exercises judicial powers in the trial of public officers; yet a similar power, in this system, is complained of; at the same time, the Constitution of Pennsylvania is referred to as an example for the late Convention to have taken a lesson by.

In New Jersey, in Georgia, in South Carolina, and North

Carolina, the executive power is blended with the legislative. Turn to their constitutions, and see in how many instances.

In North Carolina, the Senate and House of Commons elect the governor himself: they likewise elect seven persons to be a council of state, to advise the governor in the execution of his office. Here we find the whole executive department under the nomination of the legislature, at least the most important part of it.

In South Carolina, the legislature appoints the governor and commander-in-chief, lieutenant-governor and privy council. "Justices of the peace shall be nominated by the legislature, and commissioned by the governor;" and what is more, they are appointed during pleasure. All other judicial officers are to be appointed by the Senate and House of Representatives. I might go further, and detail a great multitude of instances, in which the legislative, executive, and judicial powers are blended; but it is unnecessary; I only mention these to show, that, though this Constitution does not arrive at what is called perfection, yet it contains great improvements, and its powers are distributed with a degree of accuracy superior to what is termed accuracy in particular states.

There are four instances in which improper powers are said to be blended in the Senate. We are told that this government is imperfect, because the Senate possess the power of trying impeachments; but here, sir, the Senate are under a check, as no impeachment can be tried until it is made; and the House of Representatives possess the sole power of making impeachments. We are told that the share which the Senate have in making treaties is exceptionable; but here they are also under a check, by a constituent part of the government, and nearly the immediate representative of the people — I mean the President of the United States. They can make no treaty without his concurrence. The same observation applies in the appointment of officers. Every officer must be nominated solely and exclusively by the President.

Much has been said on the subject of treaties; and this power is denominated a blending of the legislative and executive powers in the Senate. It is but justice to represent the favorable, as well as unfavorable, side of a question,

and from thence determine whether the objectionable parts are of a sufficient weight to induce a rejection of this Constitution.

There is no doubt, sir, but, under this Constitution, treaties will become the supreme law of the land; nor is there any doubt but the Senate and President possess the power of making them. But though the treaties are to have the force of laws, they are in some important respects very different from other acts of legislation. In making laws, our own consent alone is necessary. In forming treaties, the concurrence of another power becomes necessary. Treaties, sir, are truly contracts, or compacts, between the different states, nations, or princes, who find it convenient or necessary to enter into them. Some gentlemen are of opinion that the power of making treaties should have been placed in the legislature at large; there are, however, reasons that operate with great force on the other side. Treaties are frequently (especially in time of war) of such a nature, that it would be extremely improper to publish them, or even commit the secret of their negotiation to any great number of persons. For my part, I am not an advocate for secrecy in transactions relating to the public; not generally even in forming treaties, because I think that the history of the diplomatic corps will evince, even in that great department of politics, the truth of an old adage, that "honesty is the best policy," and this is the conduct of the most able negotiators; yet sometimes secrecy may be necessary, and therefore it becomes an argument against committing the knowledge of these transactions to too many persons. But in their nature treaties originate differently from laws. They are made by equal parties, and each side has half of the bargain to make; they will be made between us and powers at the distance of three thousand miles. A long series of negotiation will frequently precede them; and can it be the opinion of these gentlemen that the legislature should be in session during this whole time? It well deserves to be remarked, that, though the House of Representatives possess no active part in making treaties, yet their legislative authority will be found to have strong restraining influences upon both President and Senate. In England, if the king and his ministers find themselves, during their negotiation, to be embarrassed because an existing law is not repealed,

or a new law is not enacted, they give notice to the legislature of their situation, and inform them that it will be necessary, before the treaty can operate, that some law be repealed, or some be made. And will not the same thing take place here? Shall less prudence, less caution, less moderation, take place among those who negotiate treaties for the United States, than among those who negotiate them for the other nations of the earth? And let it be attended to, that, even in the making of treaties, the states are immediately represented, and the people mediately represented; two of the constituent parts of government must concur in making them. Neither the President nor the Senate, solely, can complete a treaty; they are checks upon each other, and are so balanced as to produce security to the people.

I might suggest other reasons, to add weight to what has already been offered; but I believe it is not necessary; yet let me, however, add one thing—the Senate is a favorite with many of the states, and it was with difficulty that these checks could be procured; it was one of the last exertions of conciliation, in the late Convention, that obtained them.

It has been alleged, as a consequence of the small number of representatives, that they will not know, as intimately as they ought, the interests, inclinations, or habits, of their constituents.

We find, on an examination of all its parts, that the objects of this government are such as extend beyond the bounds of the particular states. This is the line of distinction between this government and the particular state governments.

This principle I had an opportunity of illustrating on a former occasion. Now, when we come to consider the objects of this government, we shall find that, in making our choice of a proper character to be a member of the House of Representatives, we ought to fix on one whose mind and heart are enlarged; who possesses a general knowledge of the interests of America, and a disposition to make use of that knowledge for the advantage and welfare of his country. It belongs not to this government to make an act for a particular township, county, or state.

A defect in *minute* information has not certainly been an objection in the management of the business of the United States; but the want of enlarged ideas has hitherto been chargeable on our councils; yet, even with regard to minute

knowledge, I do not conceive it impossible to find eight characters that may be very well informed as to the situation, interests, and views, of every part of this state, and who may have a concomitant interest with their fellow-citizens ; they could not materially injure others without affecting their own fortunes.

I did say that, in order to obtain that enlarged information in our representatives, a large district for election would be more proper than a small one. When I speak of large districts, it is not agreeably to the idea entertained by the honorable member from Fayette, (Mr. Smilie,) who tells you that elections for large districts must be ill attended, because the people will not choose to go very far on this business. It is not meant, sir, by me, that the votes should be taken at one place ; no, sir ; the elections may be held through this state in the same manner as elections for members of the General Assembly ; and this may be done, too, without any additional inconvenience or expense.

If it could be effected, all the people of the same society ought to meet in one place, and communicate freely with each other on the great business of representation. Though this cannot be done in fact, yet we find that it is the most favorite and constitutional idea. It is supported by this principle too, that every member is the representative of the whole community, and not of a particular part. The larger, therefore, the district is, the greater is the probability of selecting wise and virtuous characters, and the more agreeable it is to the constitutional principle of representation.

As to the objection that the House of Representatives may be bribed by the Senate, I confess I do not see that bribery is an objection against *this system* ; it is rather an objection against human nature. I am afraid that bribes in every government may be offered and received ; but let me ask of the gentlemen who urge this objection to point out where any power is given to *bribe under this Constitution*. Every species of influence is guarded against as much as possible. Can the Senate procure money to effect such design ? All public moneys must be disposed of by law, and it is necessary that the House of Representatives originate such law. Before the money can be got out of the treasury, it must be appropriated by law. If the legislature had the effrontery to set aside three or four hundred thousand pounds

for this purpose, and the people would tamely suffer it, I grant it might be done ; and in Pennsylvania the legislature might do the same ; for, by a law, and that conformably to the Constitution, they might divide among themselves what portion of the public money they pleased. I shall just remark, sir, that the objections which have repeatedly been made with regard to “the number of representatives being too small, and that they may possibly be made smaller ; that the districts are too large, and not within the reach of the people ; and that the House of Representatives may be bribed by the Senate,” come with an uncommon degree of impropriety from those who would refer us back to the Articles of Confederation ; for, under these, the representation of this state cannot exceed seven members, and may consist of only two ; and these are wholly without the reach or control of the people. Is there not also greater danger that the majority of such a body might be more easily bribed than the majority of one not only more numerous, but checked by a division of two or three distinct and independent parts ? The danger is certainly better guarded against in the proposed system than in any other yet devised.

The next objections, which I shall notice, are, “that the powers of the Senate are too great ; that the representation therein is unequal ; and that the Senate, from the smallness of its number, may be bribed.” Is there any propriety in referring us to the Confederation on this subject ? Because, in one or two instances, the Senate possess more power than the House of Representatives, are these gentlemen supported in their remarks, when they tell you they wished and expected more powers to be given to the present Congress — a body certainly much more exceptionable than any instituted under this system ?

That “the representation in the Senate is unequal,” I regret, because I am of opinion that the states ought to be represented according to their importance ; but in this system there is a considerable improvement ; for the true principle of representation is carried into the House of Representatives, and into the choice of the President ; and without the assistance of one or the other of these, the Senate is inactive, and can do neither good nor evil.

It is repeated, again and again, by the honorable gentleman, that “the power over elections, which is given to the

general government in this system, is a dangerous power." I must own I feel, myself, surprised that an objection of this kind should be persisted in, after what has been said by the honorable colleague in reply. I think it has appeared, by a minute investigation of the subject, that it would have been not only unwise, but highly improper, in the late Convention, to have omitted this clause, or given less power than it does over elections. Such powers, sir, are enjoyed by every state government in the United States. In some they are of a much greater magnitude; and why should this be the only one deprived of them? Ought not these, as well as every other legislative body, to have the power of judging of the qualifications of its own members? "The times, places, and manner of holding elections for representatives, may be altered by Congress." This power, sir, has been shown to be necessary, not only on some particular occasions, but even to the very existence of the federal government. I have heard some very improbable suspicions indeed suggested with regard to the manner in which it will be exercised. Let us suppose it may be improperly exercised; is it not more likely so to be by the particular states than by the government of the United States?—because the general government will be more studious of the good of the whole than a particular state will be; and therefore, when the power of regulating the time, place, or manner of holding elections, is exercised by the Congress, it will be to correct the improper regulations of a particular state.

I now proceed to the second article of this Constitution, which relates to the executive department.

I find, sir, from an attention to the arguments used by the gentlemen on the other side of the house, that there are but few exceptions taken to this part of the system. I shall take notice of them, and afterwards point out some valuable qualifications, which I think this part possesses in an eminent degree.

The objection against the powers of the President is not that they are too many or too great; but, to state it in the gentlemen's own language, they are so trifling, that the President is no more than the *tool* of the Senate.

Now, sir, I do not apprehend this to be the case, because I see that he may do a great many things independently of the Senate; and, with respect to the executive powers of

government in which the Senate participate, they can do nothing without him. Now, I would ask, which is most likely to be the tool of the other? Clearly, sir, he holds the helm, and the vessel can proceed neither in one direction nor another, without his concurrence. It was expected by many, that the cry would have been against the powers of the President as a monarchical power; indeed, the echo of such sound was heard some time before the rise of the late Convention. There were men, at that time, determined to make an attack upon whatever system should be proposed; but they mistook the point of direction. Had the President possessed those powers, which the opposition on this floor are willing to consign him, of making treaties and appointing officers, with the advice of a council of state, the clamor would have been, that the House of Representatives and the Senate were the *tools* of the monarch. This, sir, is but conjecture; but I leave it to those who are acquainted with the current of the politics pursued by the enemies of this system, to determine whether it is a reasonable conjecture or not.

The manner of appointing the President of the United States, I find, is not objected to; therefore I shall say little on that point. But I think it well worth while to state to this house how little the difficulties, even in the most difficult part of this system, appear to have been noticed by the honorable gentlemen in opposition. The Convention, sir, were perplexed with no part of this plan so much as with the mode of choosing the President of the United States. For my own part, I think the most unexceptionable mode, next after the one prescribed in this Constitution, would be that practised by the Eastern States and the state of New York; yet, if gentlemen object that an eighth part of our country forms a district too large for election, how much more would they object, if it was extended to the whole Union! On this subject, it was the opinion of a great majority in Convention, that the thing was impracticable; other embarrassments presented themselves.

Was the President to be appointed by the legislature? Was he to continue a certain time in office, and afterwards was he to become ineligible?

To have the executive officers dependent upon the legis-

lative, would certainly be a violation of that principle, so necessary to preserve the freedom of republics, that the legislative and executive powers should be separate and independent. Would it have been proper that he should be appointed by the Senate? I apprehend that still stronger objections could be urged against that: cabal — intrigue — corruption — every thing bad, would have been the necessary concomitant of every election.

To avoid the inconveniences already enumerated, and many others that might be suggested, the mode before us was adopted. By it we avoid corruption; and we are little exposed to the lesser evils of party intrigue; and when the government shall be organized, proper care will undoubtedly be taken to counteract influence even of that nature. The Constitution, with the same view, has directed, that the day on which the electors shall give their votes shall be the same throughout the United States. I flatter myself the experiment will be a happy one for our country.

The choice of this officer is brought as nearly home to the people as is practicable. With the approbation of the state legislatures, the people may elect with only one remove; for “each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in Congress.” Under this regulation, it will not be easy to corrupt the electors, and there will be little time or opportunity for tumult or intrigue. This, sir, will not be like the elections of a Polish diet, begun in noise and ending in bloodshed.

If gentlemen will look into this article, and read for themselves, they will find that there is no well-grounded reason to suspect the President will be the *tool* of the Senate. “The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officers in each of the executive departments, upon any subject relative to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States.” Must the President, after all, be called the *tool* of the Senate? I do not mean to insinuate

that he has more powers than he ought to have, but merely to declare that they are of such a nature as to place him above expression of contempt.

There is another power of no small magnitude intrusted to this officer. "He shall take care that the laws be faithfully executed."

I apprehend that, in the administration of this government, it will not be found necessary for the Senate always to sit. I know some gentlemen have insinuated and conjectured that this will be the case; but I am inclined to a contrary opinion. If they had employment every day, no doubt but it might be the wish of the Senate to continue their session; but, from the nature of their business, I do not think it will be necessary for them to attend longer than the House of Representatives. Besides their legislative powers, they possess three others, viz., trying impeachments, concurring in making treaties, and in appointing officers. With regard to their power in making treaties, it is of importance that it should be very seldom exercised. We are happily removed from the vortex of European politics, and the fewer and the more simple our negotiations with European powers, the better they will be. If such be the case, it will be but once in a number of years that a single treaty will come before the Senate. I think, therefore, that on this account it will be unnecessary to sit constantly. With regard to the trial of impeachments, I hope it is what will seldom happen. In this observation, the experience of the ten last years supports me. Now, there is only left the power of concurring in the appointment of officers; but care is taken, in this Constitution, that this branch of business may be done without their presence. The president is authorized to fill up all vacancies that may happen, during the recess of the Senate, by granting commissions, which shall expire at the end of their next session; so that, on the whole, the Senate need not sit longer than the House of Representatives, at the public expense; and no doubt, if apprehensions are entertained of the Senate, the House of Representatives will not provide pay for them one day longer than is necessary. But what (it will be asked) is this great power of the President? He can fill the offices only by temporary appointments. True; but every person knows the advantage of being once intro-

duced into an office ; it is often of more importance than the highest recommendation.

Having now done with the legislative and executive branches of this government, I shall just remark, that, upon the whole question of the executive, it appears that the gentlemen in opposition state nothing as exceptionable but the deficiency of powers in the President ; but rather seem to allow some degree of political merit in this department of government.

I now proceed to the judicial department ; and here, Mr. President, I meet an objection, I confess, I had not expected ; and it seems it did not occur to the honorable gentleman (Mr. Findley) who made it until a few days ago.

He alleges that the judges, under this Constitution, are not rendered sufficiently independent, because they may hold other offices ; and though they may be independent as judges, yet their other office may depend upon the legislature. I confess, sir, this objection appears to me to be a little wire-drawn. In the first place, the legislature can appoint to no office ; therefore, the dependence could not be on them for the office, but rather on the President and Senate ; but then these cannot add the salary, because no money can be appropriated but in consequence of a law of the United States. No sinecure can be bestowed on any judge but by the concurrence of the whole legislature and the President ; and I do not think this an event that will probably happen.

It is true that there is a provision made in the Constitution of Pennsylvania, that the judges shall not be allowed to hold any other office whatsoever ; and I believe they are expressly forbidden to sit in Congress ; but this, sir, is not introduced as a principle into this Constitution. There are many states in the Union, whose constitutions do not limit the usefulness of their best men, or exclude them from rendering those services to their country for which they are found eminently qualified. New York, far from restricting their chancellor, or judges of the Supreme Court, from a seat in Congress, expressly provide for sending them there on extraordinary occasions. In Connecticut, the judges are not precluded from enjoying other offices. Judges from many states have sat in Congress. Now, it is not to be expected that eleven or twelve states are to change their sentiments and practice, on this subject, to accommodate themselves to Pennsylvania.

It is again alleged, against this system, that the powers of the judges are too extensive; but I will not trouble you, sir, with a repetition of what I had the honor of delivering the other day. I hope the result of those arguments gave satisfaction, and proved that the judicial were commensurate with the legislative powers; that they went no farther, and that they ought to go so far.

The laws of Congress being made for the Union, no particular state can be alone affected; and as they are to provide for the general purposes of the Union, so ought they to have the means of making the provisions effectual over all that country included within the Union.

Eodem die, 1787, P. M. — Mr. WILSON. I shall now proceed, Mr. President, to notice the remainder of the objections that have been suggested by the honorable gentlemen who oppose the system now before you.

We have been told, sir, by the honorable member from Fayette, (Mr. Smilie,) “that the trial by jury was intended to be given up, and the civil law was intended to be introduced into its place, in civil cases.”

Before a sentiment of this kind was hazarded, I think, sir, the gentleman ought to be prepared with better proof in its support than any he has yet attempted to produce. It is a charge, sir, not only unwarrantable, but cruel: the idea of such a thing, I believe, never entered into the mind of a single member of that Convention; and I believe further, that they never suspected there would be found, within the United States, a single person that was capable of making such a charge. If it should be well founded, sir, they must abide by the consequences; but if (as I trust it will fully appear) it is ill founded, then he or they who make it ought to abide by the consequences.

Trial by jury forms a large field for investigation, and numerous volumes are written on the subject; those who are well acquainted with it may employ much time in its discussion; but in a country where its excellences are so well understood, it may not be necessary to be very prolix in pointing them out. For my part, I shall confine myself to a few observations in reply to the objections that have been suggested.

The member from Fayette (Mr. Smilie) has labored to infer that, under the Articles of Confederation, the Congress

possessed no appellate jurisdiction; but this being decided against him by the words of that instrument, by which is granted to Congress the power of "establishing courts for receiving, and determining finally, appeals in all cases of capture, he next attempts a distinction, and allows the power of appealing from the decisions of the judges, but not from the verdict of a jury; but this is determined against him also by the practice of the states; for, in every instance which has occurred, this power has been claimed by Congress, and exercised by the Courts of Appeals. But what would be the consequence of allowing the doctrine for which he contends? Would it not be in the power of a jury, by their verdict, to involve the whole Union in a war? They may condemn the property of a neutral, or otherwise infringe the law of nations; in this case, ought their verdict to be without revision? Nothing can be inferred from this to prove that trials by jury were intended to be given up. In Massachusetts, and all the Eastern States, their causes are tried by juries, though they acknowledge the appellate jurisdiction of Congress.

I think I am not now to learn the advantages of a trial by jury. It has excellences that entitle it to a superiority over any other mode, in cases to which it is applicable.

Where jurors can be acquainted with the characters of the parties and the witnesses, — where the whole cause can be brought within their knowledge and their view, — I know no mode of investigation equal to that by a jury: they hear every thing that is alleged; they not only hear the words, but they see and mark the features of the countenance; they can judge of weight due to such testimony; and moreover, it is a cheap and expeditious manner of distributing justice. There is another advantage annexed to the trial by jury; the jurors may indeed return a mistaken or ill-founded verdict, but their errors cannot be systematical.

Let us apply these observations to the objects of the judicial department, under this Constitution. I think it has been shown, already, that they all extend beyond the bounds of any particular state; but further, a great number of the civil causes there enumerated depend either upon the law of nations, or the marine law, that is, the general law of mercantile countries. Now, sir, in such cases, I presume it will not be pretended that this mode of decision ought to be adopted; for the law with regard to them is the same here as in every

other country, and ought to be administered in the same manner. There are instances in which I think it highly probable that the trial by jury will be found proper; and if it is highly probable that it will be found proper, is it not equally probable that it will be adopted? There may be causes depending between citizens of different states; and as trial by jury is known and regarded in all the states, they will certainly prefer that mode of trial before any other. The Congress will have the power of making proper regulations on this subject, but it was impossible for the Convention to have gone minutely into it; but if they could, it must have been very improper, because alterations, as I observed before, might have been necessary; and whatever the Convention might have done would have continued unaltered, unless by an alteration of the Constitution. Besides, there was another difficulty with regard to this subject. In some of the states they have courts of chancery, and other appellate jurisdictions, and those states are as attached to that mode of distributing justice as those that have none are to theirs.

I have desired, repeatedly, that honorable gentlemen, who find fault, would be good enough to point out what they deem to be an improvement. The member from Westmoreland (Mr. Findley) tells us that the trial between citizens of different states ought to be by a jury of that state in which the cause of action rose. Now, it is easy to see that, in many instances, this would be very improper and very partial; for, besides the different manner of collecting and forming juries in the several states, the plaintiff comes from another state; he comes a stranger, unknown as to his character or mode of life, while the other party is in the midst of his friends, or perhaps his dependants. Would a trial by jury, in such a case, insure justice to the stranger? But again: I would ask that gentleman whether, if a great part of his fortune was in the hands of some person in Rhode Island, he would wish that his action to recover it should be determined by a jury of that country, under its present circumstances.

The gentleman from Fayette (Mr. Smilie) says that, if the Convention found themselves embarrassed, at least they might have done thus much — they should have declared that the substance should be secured by Congress. This would be saying nothing unless the cases were particularized.

Mr. SMILIE. I said the Convention ought to have de-

clared that the legislature should establish the trial by jury by proper regulations.

Mr. WILSON. The legislature shall establish it by proper regulations! So, after all, the gentleman has landed us at the very point from which we set out. He wishes them to do the very thing they have done — to leave it to the discretion of Congress. The fact, sir, is, nothing more could be done.

It is well known that there are some cases that should not come before juries; there are others, that, in some of the states, never come before juries, and in those states where they do come before them, appeals are found necessary, the facts reexamined, and the verdict of the jury sometimes is set aside; but I think, in all cases where the cause has come originally before a jury, that the last examination ought to be before a jury likewise.

The power of having appellate jurisdiction, as to facts, has been insisted upon as a proof, "that the Convention *intended* to give up the trial by jury in civil cases, and to introduce the civil law." I have already declared my own opinion on this point, and have shown not merely that it is founded on reason and authority; — the express declaration of Congress (*Journals of Congress*, March 6, 1779) is to the same purpose. They insist upon this power, as requisite to preserve the peace of the Union; certainly, therefore, it ought always to be possessed by the head of the confederacy. We are told, as an additional proof, that the trial by jury was intended to be given up; "that appeals are unknown to the common law; that the term is a civil-law term, and with it the civil law is intended to be introduced." I confess I was a good deal surprised at this observation being made; for Blackstone, in the very volume which the honorable member (Mr. Smilie) had in his hand, and read us several extracts from, has a chapter entitled "Of Proceeding in the Nature of Appeals," — and in that chapter says, that the principal method of redress for erroneous judgments, in the king's courts of record, is by writ of error to some superior "*court of appeal*." (3 *Blackstone*, 406.) Now, it is well known that his book is a commentary upon the common law. Here, then, is a strong refutation of the assertion, "that appeals are unknown to the common law."

I think these were all the circumstances adduced to show

the truth of the assertion, that, in this Constitution, the trial by jury was *intended* to be given up by the late Convention in framing it. Has the assertion been proved? I say not; and the allegations offered, if they apply at all, apply in a contrary direction. I am glad that this objection has been stated, because it is a subject upon which the enemies of this Constitution have much insisted. We have now had an opportunity of investigating it fully; and the result is, that there is no foundation for the charge, but it must proceed from ignorance, or something worse.

I go on to another objection which has been taken to this system: "that the expense of the general government and of the state governments will be too great, and that the citizens will not be able to support them." If the state governments are to continue as cumbersome and expensive as they have hitherto been, I confess it would be distressing to add to their expenses, and yet it might be necessary; but I think I can draw a different conclusion on this subject, from more conjectures than one. The additional revenue to be raised by a general government will be more than sufficient for additional expense; and a great part of that revenue may be so contrived as not to be taken from the citizens of this country; for I am not of opinion that the consumer always pays the impost that is laid on imported articles; it is paid sometimes by the importer, and sometimes by the foreign merchant who sends them to us. Had a duty of this nature been laid at the time of the peace, the greatest part of it would have been the contribution of foreigners. Besides, whatever is paid by the citizens is a *voluntary* payment.

I think, sir, it would be very easy and laudable to lessen the expenses of the state governments. I have been told (and perhaps it is not very far from the truth) that there are *two thousand* members of assembly in the several states. The business of revenue is done in consequence of requisitions from Congress; and whether it is furnished or not, it commonly becomes a subject of discussion. Now, when this business is executed by the legislature of the United States, I leave it to those who are acquainted with the expense of long and frequent sessions of Assembly, to determine the great saving that will take place. Let me appeal to the citizens of Pennsylvania, how much time is taken up in this state every year, if not every session, in providing for the

payment of an amazing interest due on her funded debt. There will be many sources of revenue, and many opportunities for economy, when the business of finance shall be administered under one government: the funds will be more productive, and the taxes, in all probability, less burdensome, than they are now.

I proceed to another objection that is taken against the power, given to Congress, of raising and keeping up standing armies. I confess I have been surprised that this objection was ever made; but I am more so that it is still repeated and insisted upon. I have taken some pains to inform myself how the other governments of the world stand with regard to this power, and the result of my inquiry is, that there is not one which has not the power of raising and keeping up standing armies. A government without the power of defence! it is a solecism.

I well recollect the principle insisted upon by the patriotic body in Great Britain; it is, that, in time of peace, a standing army ought not to be kept up without the consent of Parliament. Their only apprehension appears to be, that it might be dangerous, were the army kept up without the concurrence of the representatives of the people. Sir, we are not in the millennium. Wars may happen; and when they do happen, who is to have the power of collecting and appointing the force, then become immediately and indispensably necessary?

It is not declared, in this Constitution, that the Congress shall raise and support armies. No, sir: if they are not driven to it by necessity, why should we suppose they would do it by choice, any more than the representatives of the same citizens in the state legislatures? For we must not lose sight of the great principle upon which this work is founded. The authority here given to the general government flows from the same source as that placed in the legislatures of the several states.

It may be frequently necessary to keep up standing armies in time of peace. The present Congress have experienced the necessity, and seven hundred troops are just as much a standing army as seventy thousand. The principle which sustains them is precisely the same. They may go further, and raise an army, without communicating to the public the purpose for which it is raised. On a particular occasion

they did this. When the commotions existed in Massachusetts, they gave orders for enlisting an additional body of two thousand men. I believe it is not generally known on what a perilous tenure we held our freedom and independence at that period. The flames of internal insurrection were ready to burst out in every quarter; they were formed by the correspondents of state officers, (to whom an allusion was made on a former day,) and from one end to the other of the continent, we walked on ashes, concealing fire beneath our feet; and ought Congress to be deprived of power to prepare for the defence and safety of our country? Ought they to be restricted from arming, until they divulge the motive which induced them to arm? I believe the *power* of raising and keeping up an army, in time of peace, is essential to every government. No government can secure its citizens against dangers, internal and external, without possessing it, and sometimes carrying it into execution. I confess it is a power in the exercise of which all wise and moderate governments will be as prudent and forbearing as possible. When we consider the situation of the United States, we must be satisfied that it will be necessary to keep up some troops for the protection of the western frontiers, and to secure our interest in the internal navigation of that country. It will be not only necessary, but it will be economical on the great scale. Our enemies, finding us invulnerable, will not attack us; and we shall thus prevent the occasion for larger standing armies. I am now led to consider another charge that is brought against this system.

It is said that Congress should not possess the power of calling out the militia, to execute the laws of the Union, suppress insurrections, and repel invasions; nor the President have the command of them when called out for such purposes.

I believe any gentleman, who possesses military experience, will inform you that men without a uniformity of arms, accoutrements, and discipline, are no more than a mob in a camp; that, in the field, instead of assisting, they interfere with one another. If a soldier drops his musket, and his companion, unfurnished with one, takes it up, it is of no service, because his cartridges do not fit it. By means of this system, a uniformity of arms and discipline will prevail throughout the United States.

I really expected that, for this part of the system at least, the framers of it would have received plaudits instead of censures, as they here discover a strong anxiety to have this body put upon an effective footing, and thereby, in a great measure, to supersede the necessity of raising or keeping up standing armies.

The militia formed under this system, and trained by the several states, will be such a bulwark of internal strength, as to prevent the attacks of foreign enemies. I have been told that, about the year 1744, an attack was intended by France upon Massachusetts Bay, but was given up on reading the militia law of the province.

If a single state could deter an enemy from such attempts, what influence will the proposed arrangement have upon the different powers of Europe?

In every point of view, this regulation is calculated to produce good effects. How powerful and respectable must the body of militia appear under general and uniform regulations! How disjointed, weak, and inefficient are they at present! I appeal to military experience for the truth of my observations.

The next objection, sir, is a serious one indeed; it was made by the honorable gentleman from Fayette, (Mr. Smilie.) "The Convention knew this was not a free government; otherwise, they would not have asked the powers of the purse and sword." I would beg to ask the gentleman what free government he knows that has not the powers of both? There was, indeed, a government under which we unfortunately were for a few years past, that had them not; but it does not now exist. A government without these powers is one of the improvements with which opposition wish to astonish mankind.

Have not the freest governments those powers? And are they not in the fullest exercise of them? This is a thing so clear, that really it is impossible to find facts or reasons more clear, in order to illustrate it. Can we create a government without the power to act? How can it act without the assistance of men? And how are men to be procured without being paid for their services? Is not the one power the consequence of the other?

We are told,—and it is the last and heaviest charge,—“that this government is an aristocracy, and was intended

so to be by the late Convention ;” and we are told (the truth of which is not disputed) that an aristocratical government is incompatible with freedom. I hope, before this charge is believed, some stronger reasons will be given in support of it than any that have yet been produced.

The late Convention were assembled to devise some plan for the security, safety, and happiness of the people of the United States. If they have devised a plan that robs them of their power, and constitutes an aristocracy, they are the parricides of their country, and ought to be punished as such. What part of this system is it that warrants the charge ?

What is an aristocratic government ? I had the honor of giving a definition of it at the beginning of our debates. It is, sir, the government of a few over the many—elected by themselves, or possessing a share in the government by inheritance, or in consequence of territorial rights, or some quality independent of the choice of the people. This is an aristocracy, and this Constitution is said to be an aristocratical form of government ; and it is also said that it was intended so to be by the members of the late Convention who framed it. What peculiar rights have been reserved to any class of men, on any occasion ? Does even the first magistrate of the United States draw to himself a single privilege or security that does not extend to every person throughout the United States ? Is there a single distinction attached to him, in this system, more than there is to the lowest officer in the republic ? Is there an office from which any one set of men whatsoever are excluded ? Is there one of any kind in this system but is as open to the poor as to the rich ? to the inhabitant of the country, as well as to the inhabitant of the city ? And are the places of honor and emoluments confined to a few ? And are these few the members of the late Convention ? Have they made any particular provisions in favor of themselves, their relations, or their posterity ? If they have committed their country to the demon of aristocracy, have they not committed themselves also, with every thing they held near and dear to them ?

Far, far other is the genius of this system. I have had already the honor of mentioning its general nature ; but I will repeat it, sir. In its principle it is purely democratical ; but its parts are calculated in such manner as to obtain those

advantages, also, which are peculiar to the other forms of government in other countries. By appointing a single magistrate, we secure strength, vigor, energy, and responsibility in the executive department. By appointing a Senate, the members of which are elected for six years, yet, by a rotation already taken notice of, changing every second year, we secure the benefit of experience, while, on the other hand, we avoid the inconveniences that arise from a long and detached establishment. This body is periodically renovated from the people, like a tree, which, at the proper season, receives its nourishment from its parent earth.

In the other branch of the legislature, the House of Representatives, shall we not have the advantages of benevolence and attachment to the people, whose immediate representatives they are?

A free government has often been compared to a pyramid. This allusion is made with peculiar propriety in the system before you; it is laid on the broad basis of the people; its powers gradually rise, while they are confined, in proportion as they ascend, until they end in that most permanent of all forms. When you examine all its parts, they will invariably be found to preserve that essential mark of free governments — a chain of connection with the people.

Such, sir, is the nature of this system of government; and the important question at length presents itself to our view — Shall it be ratified, or shall it be rejected, by this Convention? In order to enable us still further to form a judgment on this truly momentous and interesting point, on which all we have, or can have, dear to us on earth is materially depending, let us for a moment consider the consequences that will result from one or the other measure. Suppose we reject this system of government; what will be the consequence? Let the farmer say, he whose produce remains unasked for; nor can he find a single market for its consumption, though his fields are blessed with luxuriant abundance. Let the manufacturer, and let the mechanic, say; they can feel, and tell their feelings. Go along the wharves of Philadelphia, and observe the melancholy silence that reigns. I appeal not to those who enjoy places and abundance under the present government; they may well dilate upon the easy and happy situation of our country. Let the merchants tell you what is our commerce; let them

say what has been their situation since the return of peace — an era which they might have expected would furnish additional sources to our trade, and a continuance, and even an increase, to their fortunes. Have these ideas been realized? or do they not lose some of their capital in every adventure, and continue the unprofitable trade from year to year, subsisting under the hopes of happier times under an efficient general government? The ungainful trade carried on by our merchants has a baneful influence on the interests of the manufacturer, the mechanic, and the farmer; and these, I believe, are the chief interests of the people of the United States.

I will go further. Is there now a government among us that can do a single act that a national government ought to do? Is there any power of the United States that can *command* a single shilling? This is a plain and a home question.

Congress may recommend; they can do no more: they may require; but they must not proceed one step further. If things are bad now, — and that they are not worse is only owing to hopes of improvement or change in the system, — will they become better when those hopes are disappointed? We have been told, by honorable gentlemen on this floor, (Mr. Smilie, Mr. Findley, and Mr. Whitehill,) that it is improper to urge this kind of argument in favor of a new system of government, or against the old one: unfortunately, sir, these things are too severely felt to be omitted; the people feel them; they pervade all classes of citizens, and every situation from New Hampshire to Georgia: the argument of necessity is the patriot's defence, as well as the tyrant's plea.

Is it likely, sir, that, if this system of government is rejected, a better will be framed and adopted? I will not expatiate on this subject; but I believe many reasons will suggest themselves to prove that such expectation would be illusory. If a better could be obtained at a future time, is there any thing essentially wrong in this? I go further. Is there any thing wrong that cannot be amended more easily by the mode pointed out in the system itself, than could be done by calling convention after convention, before the organization of the government? Let us now turn to the consequences that will result if we assent to and ratify the instrument before you. I shall trace them as concisely as

I can, because I have trespassed already too long on the patience and indulgence of the house.

I stated, on a former occasion, one important advantage ; by adopting this system, we become a *nation* ; at present, we are not one. Can we perform a single national act ? Can we do any thing to procure us dignity, or to preserve peace and tranquillity ? Can we relieve the distress of our citizens ? Can we provide for their welfare or happiness ? The powers of our government are mere sound. If we offer to treat with a nation, we receive this humiliating answer : " You cannot, in propriety of language, make a treaty, because you have no power to execute it." Can we borrow money ? There are too many examples of unfortunate creditors existing, both on this and the other side of the Atlantic, to expect success from this expedient. But could we borrow money, we cannot command a fund, to enable us to pay either the principal or interest ; for, in instances where our friends have advanced the principal, they have been obliged to advance the interest also, in order to prevent the principal from being annihilated in their hands by depreciation. Can we raise an army ? The prospect of a war is highly probable. The accounts we receive, by every vessel from Europe, mention that the highest exertions are making in the ports and arsenals of the greatest maritime powers. But whatever the consequence may be, are we to lie supine ? We know we are unable, under the Articles of Confederation, to exert ourselves ; and shall we continue so, until a stroke be made on our commerce, or we see the debarkation of a hostile army on our unprotected shores ? Who will guaranty that our property will not be laid waste, that our towns will not be put under contribution, by a small naval force, and subjected to all the horror and devastation of war ? May not this be done without opposition, at least effectual opposition, in the present situation of our country ? There may be safety over the Appalachian Mountains, but there can be none on our sea-coast. With what propriety can we hope our flag will be respected, while we have not a single gun to fire in its defence ?

Can we expect to make internal improvement, or accomplish any of those great national objects which I formerly alluded to, when we cannot find money to remove a single rock out of a river ?

This system, sir, will at least make us a nation, and put it in the power of the Union to act as such. We shall be considered as such by every nation in the world. We shall regain the confidence of our citizens, and command the respect of others.

As we shall become a nation, I trust that we shall also form a national character, and that this character will be adapted to the principles and genius of our system of government: as yet we possess none; our language, manners, customs, habits, and dress, depend too much upon those of other countries. Every nation, in these respects, should possess originality; there are not, on any part of the globe, finer qualities for forming a national character, than those possessed by the children of America. Activity, perseverance, industry, laudable emulation, docility in acquiring information, firmness in adversity, and patience and magnanimity under the greatest hardships; — from these materials, what a respectable national character may be raised! In addition to this character I think there is strong reason to believe that America may take the lead in literary improvements and national importance. This is a subject which, I confess, I have spent much pleasing time in considering. That language, sir, which shall become most generally known in the civilized world, will impart great importance over the nation that shall use it. The language of the United States will, in future times, be diffused over a greater extent of country than any other that we know. The French, indeed, have made laudable attempts toward establishing a universal language; but, beyond the boundaries of France, even the French language is not spoken by one in a thousand. Besides the freedom of our country, the great improvements she has made, and will make, in the science of government, will induce the patriots and *literati* of every nation to read and understand our writings on that subject; and hence it is not improbable that she will take the lead in political knowledge.

If we adopt this system of government, I think we may promise security, stability, and tranquillity, to the governments of the different states. They would not be exposed to the danger of competition on questions of territory, or any other that have heretofore disturbed them. A tribunal is here found to decide, justly and quietly, any interfering claim;

and now is accomplished what the great mind of Henry IV. of France had in contemplation — a system of government for large and respectable dominions, united and bound together, in peace, under a superintending head, by which all their differences may be accommodated, without the destruction of the human race. We are told by Sully that this was the favorite pursuit of that good king during the last years of his life; and he would probably have carried it into execution, had not the dagger of an assassin deprived the world of his valuable life. I have, with pleasing emotion, seen the wisdom and beneficence of a less efficient power under the Articles of Confederation, in the determination of the controversy between the states of Pennsylvania and Connecticut; but I have lamented that the authority of Congress did not extend to extinguish, entirely, the spark which has kindled a dangerous flame in the district of Wyoming.

Let gentlemen turn their attention to the amazing consequences which this principle will have in this extended country. The several states cannot war with each other; the general government is the great arbiter in contentions between them; the whole force of the Union can be called forth to reduce an aggressor to reason. What a happy exchange for the disjointed, contentious state sovereignties!

The adoption of this system will also secure us from danger, and procure us advantages from foreign nations. This, in our situation, is of great consequence. We are still an inviting object to one European power at least; and, if we cannot defend ourselves, the temptation may become too alluring to be resisted. I do not mean that, with an efficient government, we should mix with the commotions of Europe. No, sir, we are happily removed from them, and are not obliged to throw ourselves into the scale with any. This system will not hurry us into war; it is calculated to guard against it. It will not be in the power of a single man, or a single body of men, to involve us in such distress; for the important power of declaring war is vested in the legislature at large: this declaration must be made with the concurrence of the House of Representatives: from this circumstance we may draw a certain conclusion that nothing but our national interest can draw us into a war. I cannot forbear, on this occasion, the pleasure of mentioning to you the sentiments of the great and benevolent man, whose works I have already

quoted on another subject. Mr. Necker has addressed this country in language important and applicable in the strictest degree to its situation and to the present subject. Speaking of war, and the greatest caution that all nations ought to use in order to avoid its calamities, — “And you, rising nation,” says he, “whom generous efforts have freed from the yoke of Europe! let the universe be struck with still greater reverence at the sight of the privileges you have acquired, by seeing you continually employed for the public felicity: do not offer it as a sacrifice at the unsettled shrine of political ideas, and of the deceitful combinations of warlike ambition; avoid, or, at least, delay, participating in the passions of our hemisphere; make your own advantage of the knowledge which experience alone has given to our old age, and preserve, for a long time, the simplicity of childhood; in short, honor human nature, by showing that, when left to its own feelings, it is still capable of those virtues that maintain public order, and of that prudence which insures public tranquillity.”

Permit me to offer one consideration more, that ought to induce our acceptance of this system. I feel myself lost in the contemplation of its magnitude. By adopting this system, we shall probably lay a foundation for erecting temples of liberty in every part of the earth. It has been thought by many, that on the success of the struggle America has made for freedom will depend the exertions of the brave and enlightened of other nations. The advantages resulting from this system will not be confined to the United States, but will draw from Europe many worthy characters, who pant for the enjoyment of freedom. It will induce princes, in order to preserve their subjects, to restore to them a portion of that liberty of which they have for many ages been deprived. It will be subservient to the great designs of Providence with regard to this globe — the multiplication of mankind, their improvement in knowledge, and their advancement in happiness.

Mr. M'KEAN. Sir, you have under your consideration a matter of very great weight and importance, not only to the present generation, but to posterity; for where the rights and liberties of the people are concerned, there certainly it is fit to proceed with the utmost caution and regard. You have done so hitherto. The power of this Convention being derived from the people of Pennsylvania, by a *positive* and

voluntary grant, cannot be extended farther than what this *positive grant* hath conveyed. You have been chosen by the people for the sole purpose of "assenting to and ratifying the Constitution proposed for the future government of the United States, with respect to their general and common concerns," or of rejecting it. It is a sacred trust; and as, on the one hand, you ought to weigh well the innovations it will create in the governments of the individual states, and the dangers which may arise by its adoption, so, upon the other hand, you ought fully to consider the benefits it may promise, and the consequences of a rejection of it. You have hitherto acted strictly conformably to your delegated power; you have agreed that a single question can come before you; and it has been accordingly moved that you resolve "to assent to and ratify this Constitution." Three weeks have been spent in hearing the objections that have been made against it, and it is now time to determine whether they are of such a nature as to overbalance any benefits or advantages that may be derived to the state of Pennsylvania by your accepting it.

Sir, I have as yet taken up but little of your time; notwithstanding this, I will endeavor to contract what occurs to me on the subject. And in what I have to offer, I shall observe this method: I will first consider the arguments that may have been used against this Constitution, and then give my reasons why I am for the motion.

The arguments *against* the Constitution are, I think, chiefly these:—

First. That the elections of representatives and senators are not frequent enough to insure responsibility to their constituents.

Second. That one representative for thirty thousand persons is too few.

Third. The Senate have a share in the appointment of certain officers, and are to be the judges on the impeachment of such officers. This is blending the executive with the legislative and judicial department, and is likely to screen the offenders impeached, because of the concurrence of a majority of the Senate in their appointment.

Fourth. That the Congress may, by law, deprive the electors of a fair choice of their representatives, by fixing improper times, places, and modes of election.

Fifth. That the powers of Congress are too large, particularly in laying internal taxes and excises, because they may lay excessive taxes, and leave nothing for the support of the state governments.

In raising and supporting armies; and that the appropriation of money, for that use, should not be for so long a term as two years.

In calling forth the militia on necessary occasions; because they may call them from one end of the continent to the other, and wantonly harass them; besides, they may coerce men to act in the militia, whose consciences are against bearing arms in any case.

In making all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof;

And in declaring that this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land.

The migration or importation of such persons as any of the states shall admit shall not be prohibited prior to 1808, nor a tax or duty imposed on such importation exceeding ten dollars for each person.

Sixth. That the whole of the executive power is not lodged in the President alone, so that there might be one responsible person.

That he has the sole power of pardoning offences against the United States, and may therefore pardon traitors, for treasons committed in consequence of his own ambitious and wicked projects, or those of the Senate.

That the Vice-President is a useless officer, and, being an executive officer, is to be president of the Senate, and in case of a division is to have the casting voice.

Seventh. The judicial power shall be vested in one Supreme Court. An objection is made, that the compensation for the services of the judges shall not be diminished during their continuance in office; and this is contrasted with the compensation to the President, which is to be neither *increased* nor *diminished* during the period for which he shall have been elected; but that of the judges may be increased;

and the judges may hold other offices of a lucrative nature, and their judgments be thereby warped.

That in all the cases enumerated, except where the Supreme Court has original jurisdiction, "they shall have appellate jurisdiction both as to law and facts, with such exceptions, and under such regulations, as the Congress shall make." From hence is inferred that the trial by jury is not secured.

That they have jurisdiction between citizens of different states.

Eighth. That there is no bill or declaration of rights in this Constitution.

Ninth. That this is a *consolidation* of the several states, and not a *confederation*.

Tenth. It is an *aristocracy*, and was intended to be so by the framers of it.

The first objection that I heard advanced against this Constitution, I say, sir, was, that "the elections of representatives and senators are not frequent enough to insure responsibility to their constituents."

This is a subject that most men differ about ; but there are more considerations than that of mere responsibility. By this system the House of Representatives is composed of persons chosen every second year by the people of the several states ; and the senators every six years by the legislatures. Whether the one or the other of these periods is of too long duration, is a question to which various answers will be given. Some persons are of opinion, that three years in the one case, and seven in the other, would be a more eligible term than that adopted in this Constitution. In Great Britain, we find the House of Commons elected for seven years ; the House of Lords is perpetual, and the king never dies. The Parliament of Ireland is octennial. In various other parts of the British dominions, the House of Representatives sit during the royal pleasure, and have been continued twenty years. This, sir, is a term undoubtedly too long. In a single state, I think annual elections most proper ; but then there ought to be more branches in the legislature than one. An annual legislature, possessed of supreme power, may be properly termed an *annual despotism* ; and, like an individual, they are subject to caprice, and act as party spirit or spleen dictates ; hence that instability to the laws which is the bane of republican governments.

The framers of this Constitution wisely divided the legislative department between the two houses, subject to the qualified negative of the President of the United States, though this government embraces only enumerated powers. In a single state, annual elections may be proper ; the more so, when the legislative powers extend to all cases ; but in such an extent of country as the United States, and when the powers are circumscribed, there is not that necessity, nor are the objects of the general government of that nature as to be acquired immediately by every capacity. To combine the various interests of thirteen different states, requires more extensive knowledge than is necessary for the legislature of any one of them. Two years are therefore little enough for the members of the House of Representatives to make themselves fully acquainted with the views, the habits, and interests, of the United States. With respect to the Senate, when we consider the trust reposed in them, we cannot hesitate to pronounce that the period assigned to them is short enough ; they possess, in common with the House of Representatives, legislative power ; with its concurrence they also have power to declare war ; they are joined with the President in concluding treaties ; it therefore behoves them to be conversant with the politics of the nations of the world, and the dispositions of the sovereigns and their ministers ; this requires much reading and attention. And, believe me, the longer a man bends his study to any particular subject, the more likely he is to be master of it. Experience and practice will assist genius and education. I therefore think the time allowed, under this system, to both houses, to be extremely proper. This objection has been made repeatedly ; but it can only have weight with those who are not at the pains of thinking on the subject. When any thing, sir, new or great, is done, it is very apt to create a ferment among those out of doors, who, as they cannot always enter into the depth and wisdom of counsels, are too apt to censure what they do not understand ; upon a little reflection and experience, the people often find that to be a singular *blessing* which at first they deemed a *curse*.

Second. "That one representative for thirty thousand persons is too few."

There will be, sir, sixty-five in the House of Representatives, and twenty-six in the Senate—in all ninety-one.

who, together with the President, are to make laws in the several particular matters intrusted to them, and which are all enumerated and expressed. I think the number sufficient at the present, and in three years' time, when a census or actual enumeration must take place, they will be increased, and in less than twenty-five years they will be more than double. With respect to this, different gentlemen in the several states will differ, and at least the opinion of the majority must govern.

Third. "The senators have a share in the appointment of certain officers, and are to be the judges on the impeachment of such officers. This is blending the executive with the legislative and judicial department, and is likely to screen the offenders impeached, because of the concurrence of a majority of the Senate in their appointment."

The President is to nominate to office, and, with the advice and consent of the Senate, appoint officers, so that he is the responsible person ; and when any such impeachment shall be tried, it is more than probable that not one of the Senate, who concurred in the appointment, will be a senator, for the seats of a third part are to be vacated every two years, and of all in six.

As to the senators having a share in the executive power, so far as to the appointment of certain officers, I do not know where this restraint on the President could be more safely lodged. Some may think a privy counsellor might have been chosen by every state : but this could little amend the matter, if any, and it would be a considerable additional expense to the people. Nor need the Senate be under any necessity of sitting constantly, as has been alleged ; for there is an express provision made to enable the President to fill up all vacancies that may happen during their recess — the commissions to expire at the end of the next session.

As to the impeachments, the objection is much stronger against the supreme executive council of Pennsylvania.

The House of Lords, in Great Britain, are judges in the last resort in all civil causes, and, besides, have the power of trying impeachments.

On the trial of impeachments, the senators are to be under the sanction of an oath or affirmation, besides the other ties upon them to do justice ; and the basis is more likely to be against the officer accused than in his favor, for there are

always more persons disobliged, than the contrary, when an office is given away, and the expectants of office are more numerous than the possessors.

Fourth. "That the Congress may by law deprive the electors of a fair choice of their representatives, by fixing improper times, places, and modes of election."

Every House of Representatives are of necessity to be the judges of the elections, returns, and qualifications of its own members. It is therefore their province, as well as duty, to see that they are fairly chosen, and are the legal members; for this purpose, it is proper they should have it in their power to provide that the times, places, and manner of election should be such as to insure free and fair elections.

Annual *Congresses* are expressly secured; they have only a power given to them to take care that the *elections* shall be at convenient and suitable times and places, and conducted in a proper manner; and I cannot discover why we may not intrust these particulars to the representatives of the United States with as much safety as to those of individual states.

In some states the electors vote *viva voce*, in others by ballot. They ought to be uniform, and the elections held on the same day throughout the United States, to prevent corruption or undue influence. Why are we to suppose that Congress will make a bad use of this power, more than the representatives in the several states?

It is said, "that the powers of Congress, under this Constitution, are too large, particularly in laying internal taxes and excises, because they *may* lay excessive taxes, and leave nothing for the support of the state governments." Sir, no doubt but you will discover, on consideration, the necessity of extending these powers to the government of the Union. If they have to borrow money, they are certainly bound, in honor and conscience, to pay the interest, until they pay the principal, as well to the foreign as to the domestic creditor; it therefore becomes our duty to put it in their power to be honest. At present, sir, this is not the case, as experience has fully shown. Congress have solicited and required the several states to make provision for these purposes. Has one state paid its quota? I believe not one of them. And what has been the result? Foreigners have been compelled to advance money to enable us to pay the interest due them

on what they furnished to Congress during the late war. I trust we have had experience enough to convince us that Congress ought no longer to depend upon the force of requisition. I heard it urged, that Congress ought not to be authorized to collect taxes, until a state had refused to comply with this requisition. Let us examine this position. The engagements entered into by the general government render it necessary that a certain sum shall be paid in one year; notwithstanding this, they must not have power to collect it until the year expires, and then it is too late. Or is it expected that Congress will borrow the deficiency? Those who lent us, in our distress, have little encouragement to make advances again to our government; but give the power to Congress to lay such taxes as may be just and necessary, and public credit will revive. Yet, because they have the power to lay taxes and excise, does it follow that they *must*? For my part, I hope it may not be necessary; but if it is, it is much easier for the citizens of the United States to contribute their proportion, than for a few to bear the weight of the whole principal and interest of the domestic debt; and there is perfect security on this head, because the regulation must equally affect every state, and the law must originate with the immediate representatives of the people, subject to the investigation of the state representatives. But is the abuse an argument against the use of power? I think it is not; and, upon the whole, I think this power wisely and securely lodged in the hands of the general government; though, on the first view of this work, I was of opinion they might have done without it; but, sir, on reflection, I am satisfied that it is not only proper, but that our political salvation may depend upon the exercise of it.

The next objection is against "the power of raising and supporting armies; and the appropriation of money for that use should not be for so long a term as two years." Is it not necessary that the authority superintending the general concerns of the United States should have the power of raising and supporting armies? Are we, sir, to stand defenceless amidst conflicting nations? Wars are inevitable, but war cannot be declared without the consent of the immediate representatives of the people. They must also *originate* the law which appropriates the money for the support of the army; yet they can make no appropriation for a longer term

than two years : but does it follow, because they *may* make appropriations for that period, that they *must*, or even *will*. do it? The power of raising and supporting armies is not only necessary, but is enjoyed by the present Congress, who also judge of the expediency or necessity of keeping them up. In England there is a standing army : though in words it is engaged but for one year, yet is it not kept constantly up? Is there a year that Parliament refuses to grant them supplies? Though this is done annually, it might be done for any longer term. Are not their officers commissioned for life? And when *they* exercise this power with so much prudence, shall the representatives of this country be suspected the more, because they are restricted to two years?

It is objected that the powers of Congress are too large, because "they have the power of calling forth the militia on necessary occasions, and may call them from one end of the continent to the other, and wantonly harass them ; besides, they may coerce men to act in the militia whose consciences are against bearing arms in any case." It is true, by this system power is given to Congress to organize, arm, and discipline the militia, but every thing else is left to the state governments ; they are to officer and train them. Congress have also the power of calling them forth for the purpose of executing the laws of the Union, suppressing insurrections, and repelling invasions ; but can it be supposed they would call them, in such case, from Georgia to New Hampshire ? Common sense must oppose the idea.

Another objection was taken from these words of the Constitution — "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof." And, in declaring "that this Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land," this has at last been conceded, that, though it is explicit enough, yet it gives to Congress no further powers than those already enumerated. Those that first said it gave to Congress the power of superseding the state governments, cannot persist in it ; for no person can, with a tolerable face,

read the clauses over, and infer that such may be the consequence.

Provision is made that Congress shall have power to prohibit the importation of slaves after the year 1808 ; but the gentlemen in opposition accuse this system of a crime, because it has not prohibited it at once. I suspect those gentlemen are not well acquainted with the business of the diplomatic body, or they would know that an agreement might be made that did not perfectly accord with the will and pleasure of any one person. Instead of finding fault with what has been gained, I am happy to see a disposition in the United States to do so much.

The next objections have been against the executive power. It is complained of, "because the whole of the executive power is not lodged in the President *alone*, so that there might be one responsible person. He has the *sole* powers of pardoning offences against the United States, and may therefore pardon traitors, for treasons committed in consequence of his own ambitious or wicked projects, or those of the Senate."

Observe the contradiction, sir, in these two objections. One moment the system is blamed for not leaving all executive authority to the President *alone*, the next it is censured for giving him the *sole* power to pardon traitors. I am glad to hear these objections made, because it forebodes an amendment in that body in which amendment is necessary. The President of the United States must nominate to all offices, before the persons can be chosen ; he here consents and becomes liable. The executive council of Pennsylvania appoint officers by ballot, which effectually destroys responsibility. He may pardon offences ; and hence it is inferred that he may pardon traitors, for treason committed in consequence of his own ambitious and wicked projects. The executive council of Pennsylvania can do the same. But the President of the United States may be impeached before the Senate, and punished for his crimes.

"The Vice-President is a useless officer." Perhaps the government might be executed without him, but there is a necessity of having a person to preside in the Senate, to continue a full representation of each state in that body. The chancellor of England is a judicial officer ; yet he sits in the House of Lords

The next objection is against the judicial department. "The judicial power shall be vested in one Supreme Court." An objection is made that the compensation for the services of the judges shall not be *diminished* during their continuance in office; and this is contrasted with the compensation of the President, which is to be neither *increased* nor *diminished* during the period for which he shall be elected. But that of the judges may be increased, and the judge may hold other offices of a lucrative nature, and his judgment be thereby warped.

Do gentlemen not see the reason why this difference is made? Do they not see that the President is appointed but for four years, whilst the judges may continue for life, if they shall so long behave themselves well? In the first case, little alteration can happen in the value of money; but in the course of a man's life, a very great one may take place from the discovery of silver and gold mines, and the great influx of those metals; in which case an increase of salary may be requisite. A security that their compensation shall not be lessened, nor they have to look up to every session for salary, will certainly tend to make those officers more easy and independent.

"The judges may hold other offices of a lucrative nature." This part of the objection reminds me of the scheme that was fallen upon, in Pennsylvania, to prevent any person from taking up large tracts of land. A law was passed restricting the purchaser to a tract not exceeding three hundred acres; but all the difference it made was, that the land was taken up by several patents, instead of one, and the wealthy could procure, if they chose it, three thousand acres. What though the judges could hold no other office, might they not have brothers, children, and other relations, whom they might wish to see placed in the offices forbidden to themselves? I see no apprehensions that may be entertained on this account.

That, in all cases enumerated, except where the Supreme Court has original jurisdiction, "they shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make." From this it is inferred that the trial by jury is not secured; and an objection is set up to the system, because they have jurisdiction between citizens of different states. Regulations

under this head, are necessary ; but the Convention could form no one that would have suited each of the United States. It has been a subject of amazement to me to hear gentlemen contend that the verdict of a jury shall be without revision in all cases. Juries are not infallible because they are twelve in number. When the law is so blended with the fact as to be almost inseparable, may not the decision of a jury be erroneous? Yet, notwithstanding this, trial by jury is the best mode that is known. Appellate jurisdiction, sir, is known in the common law, and causes are removed from inferior courts, by writs of error, into some court of appeal. It is said that the lord chancellor, in all cases, sends down to the lower courts when he wants to determine a fact ; but that opinion is not well founded, because he determines nineteen out of twenty without the intervention of any jury. The power to try causes between citizens of different states was thought by some gentlemen invidious ; but I apprehend they must see the necessity of it, from what has been already said by my honorable colleague.

“ That there is no bill or declaration of rights in this Constitution.”

To this I answer, Such a thing has not been deemed essential to liberty, excepting in Great Britain, where there is a king and a House of Lords, quite distinct, with respect to power and interest, from the rest of the people ; or, in Poland, the *pacta conventus*, which the king signs before he is crowned ; and in six states of the American United States.

Again, because it is unnecessary ; for the powers of Congress, being derived from the people in the mode pointed out by this Constitution, and being therein enumerated and *positively* granted, can be no other than what this positive grant conveys. (*Locke on Civil Government*, vol. ii, b. 2, chap. 2, sect. 140, and in the 13th chap., sect. 152.)

With respect to executive officers, they have no manner of authority, any of them, beyond what is by *positive* grant and commission delegated to them.

“ That this is a *consolidation* of the several states, and not a *confederation*.”

To this I answer, the name is immaterial ; the thing unites the several states, and makes them like one, in particular instances and for particular purposes — which is what is ardently desired by most of the sensible men in this country.

I care not whether it is called a *consolidation*, *confederation*, or *national government*, or by what other name, if it is a good government, and calculated to promote the blessings of liberty, tranquillity, and happiness.

"It is an *aristocracy*, and was intended to be so by the framers of it."

Here, again, sir, the name is immaterial, if it is a good system of government for the general and common concerns of the United States. But after the definition which has already been given of an aristocratic government, it becomes unnecessary to repeat arguments to prove that this system does not establish an aristocracy.

There have been some other small objections to, or rather criticisms on, this work, which I rest assured the gentlemen who made them will, on reflection, excuse me in omitting to notice.

Many parts of this Constitution have been wrested and tortured, in order to make way for shadowy objections, which must have been observed by every auditor. Some other things were said with acrimony; they seemed to be personal; I heard the sound, but it was inarticulate. I can compare it to nothing better than the feeble noise occasioned by the working of small beer.

It holds in argument, as well as nature, that *destructio unius est generatio alterius* — the refutation of an argument begets a proof.

The objections to this Constitution having been answered, and all done away, it remains pure and unhurt; and this alone is a forcible argument of its goodness.

Mr. President, I am sure nothing can prevail with me to give my vote for ratifying this Constitution, but a conviction, from comparing the arguments on both sides, that the not doing it is liable to more inconvenience and danger than the doing it.

1. If you do it, you strengthen the government and people of these United States, and will thereby have the wisdom and assistance of all the states.

2. You will settle, establish, and firmly perpetuate, our independence, by destroying the vain hopes of all its enemies, both at home and abroad.

3. You will encourage your allies to join with you; nay, to depend, that what hath been stipulated, or shall hereafter be

stipulated and agreed upon, will be punctually performed, and other nations will be induced to enter into treaties with you.

4. It will have a tendency to break our parties and divisions, and, by that means, lay a firm and solid foundation for the future tranquillity and happiness of the United States in general, and of this state in particular.

5. It will invigorate our commerce, and encourage ship-building.

6. It will have a tendency not only to prevent any other nation from making war upon you, but from offering you any wrong, or even insult.

In short, the advantages that must result from it are obviously so numerous and important, and have been so fully and ably pointed out by others, that it appears to be unnecessary to enlarge on this head.

Upon the whole, sir, the law has been my study from my infancy, and my only profession. I have gone through the circle of offices, in the legislative, executive, and judicial departments of government; and from all my study, observation, and experience, I must declare that, from a full examination and due consideration of this system, it appears to me the *best the world has yet seen*.

I congratulate you on the fair prospect of its being adopted, and am happy in the expectation of seeing accomplished what has been long my ardent wish — that you will hereafter have a *salutary permanency in magistracy, and stability in the laws*.

PROCEEDINGS OF THE MEETING AT HARRISBURG, IN PENNSYLVANIA.

HARRISBURG, Sept. 3, 1788.

Agreeably to a circular letter which originated in the county of Cumberland, inviting to a conference such of the citizens of this state who conceive that a revision of the federal system, lately proposed for the government of these United States, is necessary, — a number of gentlemen from the city of Philadelphia, and counties of Philadelphia, Bucks, Chester, Lancaster, Cumberland, Berks, Northumberland, Bedford, Fayette, Washington, Franklin, Dauphin, and Huntingdon, assembled at this place for the said purpose, viz. : —

Hon. George Bryan, Esq.	Robert Whitehill,	John Kean,
Blair M'Clenahan,	William Sterrett,	Jonathan Hoge,
James Hanna,	Adam Orth,	Daniel Montgomery,
James Mercer,	Thomas Murray,	John Dickey,

Albert Gallatin,	Joseph Gardner,	John Bishop,
Benjamin Elliot,	Benjamin Blyth,	John Lytle,
James Crooks,	John Jordan,	Hon. John Smilie,
Daniel Bradley,	William Rodgers,	James Marshall,
James Anderson,	John Rodgers,	Richard Baird,
Charles Pettit,	Robert M'Kee,	John A. Hanna,
Richard Backhouse,	William Petricken,	Robert Smith.

Blair M'Clenahan, Esq., was unanimously elected chairman, and John A. Hanna, Esq., secretary.

After free discussion, and mature deliberation, had upon the subject before them, the following resolutions and propositions were adopted —

The ratification of the federal Constitution having formed a new era in the American world, highly interesting to all the citizens of the United States, it is not less the duty than the privilege of every citizen to examine with attention the principles and probable effect of a system on which the happiness or misery of the present as well as future generations so much depends. In the course of such examination, many of the good citizens of the state of Pennsylvania have found their apprehensions excited that the Constitution, in its present form, contains in it some principles which may be perverted to purposes injurious to the rights of free citizens, and some ambiguities which may probably lead to contentions incompatible with order and good government. In order to remedy these inconveniences, and to avert the apprehended dangers, it has been thought expedient that delegates, chosen by those who wish for early amendments in the said Constitution, should meet together for the purpose of deliberating on the subject, and uniting in some constitutional plan for obtaining the amendments which they may deem necessary.

We, the conferees, assembled for the purpose aforesaid, agree in opinion, —

That a federal government, only, can preserve the liberties and secure the happiness of the inhabitants of a country so extensive as these United States; and experience having taught us that the ties of our union, under the Articles of Confederation, were so weak as to deprive us of some of the greatest advantages we had a right to expect from it, we are fully convinced that a more efficient government is indispensably necessary. But although the Constitution proposed for the United States is likely to obviate most of the inconveniences we labored under, yet several parts of it appear so exceptionable to us, that we are clearly of opinion considerable amendments are essentially necessary. In full confidence, however, of obtaining a revision of such exceptionable parts by general convention, and from a desire to harmonize with our fellow-citizens, we are induced to acquiesce in the organization of the said Constitution.

We are sensible that a large number of the citizens both of this and the other states, who gave their assent to its being carried into execution previous to any amendments, were actuated more by fear of the dangers that might arise from delays, than by a conviction of its being perfect; we therefore hope they will concur with us in pursuing every peaceable method of obtaining a speedy revision of the Constitution in the mode therein provided; and, when we reflect on the present circumstances of the Union, we can entertain no doubt that motives of conciliation,

and the dictates of policy and prudence, will conspire to induce every man of true federal principles to give his support to a measure which is not only calculated to recommend the new Constitution to the approbation and support of every class of citizens, but even necessary to prevent the total defection of some members of the Union.

Strongly impressed with those sentiments, we have agreed to the following resolutions:—

I. *Resolved*, That it be recommended to the people of this state to acquiesce in the organization of the said government; but, although we thus accord in its organization, we by no means lose sight of the grand object of obtaining very considerable amendments and alterations, which we consider essential to preserve the peace and harmony of the Union, and those invaluable privileges for which so much blood and treasure have been recently expended.

II. *Resolved*, That it is necessary to obtain a speedy revision of said Constitution, by a general convention.

III. *Resolved*, That, in order to effect this desirable end, a petition be presented to the legislature of this state, requesting that honorable body to take the earliest opportunity to make application, for that purpose, to the new Congress.

The petition proposed is as follows:—

To the Honorable the Representatives of the Freemen of the Commonwealth of Pennsylvania, in General Assembly met:

The petition and representation of the subscribers humbly show—

That your petitioners possess sentiments completely federal; being convinced that a confederacy of republican states, and no other, can secure political liberty, happiness, and safety, throughout a territory so extended as the United States of America. They are well apprized of the necessity of devolving extensive powers to Congress, and of vesting the supreme legislature with every power and resource of a general nature; and consequently they acquiesce in the general system of government framed by the late federal Convention,—in full confidence, however, that the same will be revised without delay; for, however worthy of approbation the general principles and outlines of the system may be, your petitioners conceive that amendments in some parts of the plan are essential not only to the preservation of such rights and privileges as ought to be reserved in the respective states, and in the citizens thereof, but to the fair and unembarrassed operation of the government in its various departments. And as provision is made, in the Constitution itself, for the making such amendments as may be deemed necessary, and your petitioners are desirous of obtaining the amendments which occur to them as more immediately desirable and necessary, in the mode admitted by such provision,—

They pray, that your honorable house, as the representatives of the people in this commonwealth, will, in the course of your present session, take such measures as you, in your wisdom, shall deem most effectual and proper to obtain a revision and amendment of the Constitution of the United States, in such parts, and in such manner, as have been or shall be pointed out by the conventions or assemblies of the respective states; and that such revision be by a general convention of representatives from the several states in the Union.

Your petitioners consider the amendments pointed out in the proposi-

tions hereunto subjoined as essentially necessary; and as such they suggest them to your notice, submitting to your wisdom the order in which they shall be presented to the consideration of the United States.

The amendments proposed are as follows, viz. :—

I. That Congress shall not exercise any powers whatever, but such as are expressly given to that body by the Constitution of the United States; nor shall any authority, power, or jurisdiction, be assumed or exercised by the executive or judiciary departments of the Union, under color or pretence of construction or fiction; but all the rights of sovereignty, which are not by the said Constitution expressly and plainly vested in the Congress, shall be deemed to remain with, and shall be exercised by, the several states in the Union, according to their respective constitutions; and that every reserve of the rights of individuals, made by the several constitutions of the states in the Union, to the citizens and inhabitants of each state respectively, shall remain inviolate, except so far as they are expressly and manifestly yielded or narrowed by the national Constitution.

Article 1, section 2, paragraph 3.

II. That the number of representatives be, for the present, one for every twenty thousand inhabitants, according to the present estimated numbers in the several states, and continue in that proportion until the whole number of representatives shall amount to two hundred; and then to be so proportioned and modified as not to exceed that number, until the proportion of one representative for every thirty thousand inhabitants shall amount to the said number of two hundred.

Section 3. III. That senators, though chosen for six years, shall be liable to be recalled, or superseded by other appointments, by the respective legislatures of the states, at any time.

Section 4. IV. That Congress shall not have power to make or alter regulations concerning the time, place, and manner of electing senators and representatives, except in case of neglect or refusal by the state to make regulations for the purpose; and then only for such time as such neglect or refusal shall continue.

Section 8. V. That when Congress shall require supplies, which are to be raised by direct taxes, they shall demand from the several states their respective quotas thereof, giving a reasonable time to each state to procure and pay the same; and if any state shall refuse, neglect, or omit to raise and pay the same within such limited time, then Congress shall have power to assess, levy, and collect the quota of such state, together with interest for the same, from the time of such delinquency, upon the inhabitants and estates therein, in such manner as they shall by law direct; provided that no poll tax be imposed.

Section 8. VI. That no standing army of regular troops shall be raised or kept up in time of peace, without the consent of two thirds of both houses in Congress.

Section 8. VII. That the clause respecting the exclusive legislation over a district not exceeding ten miles square be qualified by a proviso that such right of legislation extend only to such regulations as respect the police and good order thereof.

Section 8. VIII. That each state, respectively, shall have power to provide for organizing, arming, and disciplining the militia thereof, whensoever Congress shall omit or neglect to provide for the

same. That the militia shall not be subject to martial law, but when in actual service, in the time of war, invasion, or rebellion; and when not in the actual service of the United States, shall be subject to such fines, penalties, and punishments, only, as shall be directed or inflicted by the laws of its own state: nor shall the militia of any state be continued in actual service longer than two months, under any call of Congress, without the consent of the legislature of such state, or, in their recess, the executive authority thereof.

Section 9. IX. That the clause respecting vessels bound to or from any one of the states be explained.

Article 3, section 1. X. That Congress establish no other court than the Supreme Court, except such as shall be necessary for determining causes of admiralty jurisdiction.

Section 2, paragraph 2. XI. That a proviso be added at the end of the second clause of the second section of the third article, to the following effect, viz.: Provided, that such appellate jurisdiction, in all cases of common-law cognizance, be by a writ of error, and confined to matters of law only; and that no such writ of error shall be admitted, except in revenue cases, unless the matter in controversy exceed the value of three thousand dollars.

Article 6, paragraph 2. XII. That to article 6, clause 2, be added the following proviso, viz.: Provided always that no treaty, which shall hereafter be made, shall be deemed or construed to alter or affect any law of the United States, or of any particular state, until such treaty shall have been laid before and assented to by the House of Representatives in Congress.

Resolved, That the foregoing proceedings be committed to the chairman for publication.

BLAIR M'CLENAHAN, *Chairman*.

Attest, JOHN A. HANNA, *Secretary*.

A FRAGMENT OF FACTS,
DISCLOSING THE CONDUCT OF
THE MARYLAND CONVENTION,
ON THE
ADOPTION OF THE FEDERAL CONSTITUTION.

ADDRESS TO THE PEOPLE OF MARYLAND.

ANNAPOLIS, *April 21, 1788.*

THE following facts, disclosing the conduct of the late Convention of Maryland, are submitted to the serious consideration of the citizens of the state.

On Monday, the 21st of April, the Convention met in Annapolis, and elected the Hon. George Plater, Esq., president. On Tuesday, they established rules for the conduct of business; and, on the same day, the following question was propounded to the Convention: —

“When a motion is made and seconded, the matter of the motion shall receive a determination by the question, or be postponed, by general consent, or the previous question, before any other motion shall be received.”

And the following question, viz., —

“Every question shall be entered on the journal; and the yeas and nays may be called for, by any member, on any question, and the name of the member requiring them shall be entered on the journal.”

Which two questions the Convention determined in the negative.

On Wednesday, the proposed plan of government was read the first time, and thereupon it was resolved, “That the Convention will not enter into any resolution upon any particular part of the proposed plan of federal government for the United States; but that the whole thereof shall be read through a second time, after which the subject may be fully debated and considered; and then the president shall put the question, “That this Convention do assent to and

ratify the same Constitution." On which question, the yeas and nays shall be taken.

On Thursday, the members who were opposed to the ratification of the Constitution, without such previous amendments could be obtained as they thought essentially necessary to secure the liberty and happiness of the people, (being confined, by the last resolution, to consider, in one view, the whole of the plan of government,) stated some of their objections to the Constitution. The Convention met in the evening, when Mr. Paca, member from Hartford, having just taken his seat, rose, and informed the president that he had great objections to the Constitution proposed, in its present form, and meant to propose a variety of amendments, not to prevent, but to accompany the ratification; but, having just arrived, he was not ready to lay them before the house; and requested indulgence, until the morning, for that purpose. The proposal being seconded, and the house asked if they would give the indulgence, it was granted without a division; and they adjourned for that purpose. On Friday, at the meeting of the house, Mr. Paca rose, and informed the president, that, in consequence of the permission of the house, given him the preceding evening, he had prepared certain amendments, which he would read in his place, and then lay on the table; when he was interrupted, and one member from each of the following counties, viz., Frederic, Talbot, Charles, Kent, Somerset, Prince George's, Worcester, Queen Anne's, Dorchester, Calvert, and Caroline, and one member from the city of Annapolis,* and one from Baltimore town, arose in their places, and declared, for themselves and their colleagues, "that they were elected and instructed, by the people they represented, to ratify the proposed Constitution, and that as speedily as possible, and to do no other act; that, after the ratification, their power ceased, and they did not consider themselves as authorized by their constituents to consider any amendments." After this, Mr. Paca was not permitted even to read his amendments. The opponents continued to make their objections to the Constitution until Saturday noon. The advocates of the government, although repeatedly called on, and earnestly requested, to answer the

* The member from the city of Annapolis did not give it as his opinion that he was not at liberty to consider amendments, but said he had consulted his colleague, and that his colleague had informed him the citizens were against amendments.

objections, if not just, remained inflexibly silent, and called for the question, that "the Convention assent to and ratify the proposed plan of federal government for the United States;" which was carried in the affirmative, by sixty-three to eleven.

The vote of ratification having thus passed, Mr. Paca again rose, and laid before the Convention his propositions for amending the Constitution thus adopted, which he had prepared by leave of the house; declaring that he had only given his assent to the government under the firm persuasion, and in full confidence that such amendments would be peaceably obtained so as to enable the people to live happy under the government; that the people of the county he represented, and that he himself, would support the government, with such amendments; but, without them, not a man in the state, and no people, would be more firmly opposed to it than himself and those he represented. Sentiments highly favorable to amendments were expressed, and a general murmur of approbation seemed to arise from all parts of the house, expressive of a desire to consider amendments, either in their characters as members of convention, or in their individual capacities as citizens; and the question was put on the following motion:—

"Resolved, That a committee be appointed to take into consideration, and report to this house on Monday morning next, a draught of such amendments and alterations as may be thought necessary, in the proposed Constitution for the United States, to be recommended to the consideration of the people of this state, if approved of by this Convention; and Mr. Paca, Mr. Johnson, Mr. S. Chase, Mr. Potts, Mr. Mercer, Mr. Goldsborough, Mr. Tilghman, Mr. Hanson, Mr. J. T. Chase, Mr. Lee, Mr. W. Tilghman, Mr. M'Henry, and Mr. G. Gale, be appointed a committee for that purpose."

A division was called for on this resolution, when there appeared sixty-six members for, and not more than seven against it.

And then it was resolved, "That the amendments proposed to the Constitution by the delegate from Hartford county should be referred to the above committee."

The committee thus appointed, the Convention adjourned to give them time to prepare their propositions; and they proceeded, with every appearance of unanimity, to execute the trust reposed in them.

The following amendments to the proposed Constitution

were separately agreed to by the committee, most of them by a unanimous vote, and all of them by a great majority.

1. That Congress shall exercise no power but what is expressly delegated by this Constitution.

By this amendment, the general powers given to Congress by the first and last paragraphs of the 8th sect. of art. 1, and the 2d paragraph of the 6th article, would be in a great measure restrained; those dangerous expressions, by which the bills of rights, and constitutions, of the several states may be repealed by the laws of Congress, in some degree moderated; and the exercise of constructive powers wholly prevented.

2. That there shall be a trial by jury in all criminal cases, according to the course of proceeding in the state where the offence is committed; and that there be no appeal from matter of fact, or second trial after acquittal; but this provision shall not extend to such cases as may arise in the government of the land or naval forces.

3. That, in all actions on debts or contracts, and in all other controversies respecting property, of which the inferior federal courts have jurisdiction, the trial of facts shall be by jury, if required by either party; and that it be expressly declared that the state courts, in such cases, have a concurrent jurisdiction with the federal courts, with an appeal from either, only as to matter of law, to the Supreme Federal Court, if the matter in dispute be of the value of dollars.

4. That the inferior federal courts shall not have jurisdiction of less than dollars; and there may be an appeal, in all cases of revenue, as well to matter of fact as law; and Congress may give the state courts jurisdiction of revenue cases, for such forms, and in such manner, as they may think proper.

5. That, in all cases of trespasses done within the body of a county, and within the inferior federal jurisdiction, the party injured shall be entitled to trial by jury in the state where the injury shall be committed; and that it be expressly declared that the state courts, in such cases, shall have concurrent jurisdiction with the federal courts, and there shall be no appeal from either, except on matter of law; and that no person be exempt from such jurisdiction and trial but ambassadors and ministers privileged by the law of nations.

6. That the federal courts shall not be entitled to jurisdiction by fictions or collusion.

7. That the federal judges do not hold any other office of profit, or receive the profits of any other office under Congress, during the time they hold their commission.

The great objects of these amendments were, 1st. To secure the trial by jury in all cases, the boasted birthright of Englishmen and their descendants, and the palladium of civil liberty; and to prevent the appeal from fact, which not only

destroys that trial in civil cases, but, by construction, may also elude it in criminal cases—a mode of proceeding both expensive and burdensome, and which, by blending law with fact, will destroy all check on the judiciary authority, render it almost impossible to convict judges of corruption, and may lay the foundation of that gradual and silent attack on individuals, by which the approaches of tyranny become irresistible. 2d. To give a concurrent jurisdiction to the state courts, in order that Congress may not be compelled, as they will be under the present form, to establish inferior federal courts, which, if not numerous, are very expensive; the circumstances of the people being unequal to the increased expense of double courts and double officers—an arrangement that will render the law so complicated and confused, that few men can know how to conduct themselves with safety to their persons or property, the great and only security of freemen. 3d. To give such jurisdiction to the state courts that transient foreigners, and persons from other states, committing injuries in this state, may be amenable to the state whose laws they violate and whose citizens they injure. 4th. To prevent an extension of the federal jurisdiction, which may, and in all probability will, swallow up the state jurisdictions, and consequently sap those rules of descent and regulations of personal property, by which men hold their estates. And lastly, to secure the independence of the federal judges, to whom the happiness of the people of this great continent will be so greatly committed by the extensive powers assigned them.

8. That all warrants without oath, or affirmation of a person conscientiously scrupulous of taking an oath, to search suspected places, or seize any person or his property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend any person suspected, without naming or describing the place or person in special, are dangerous, and ought not to be granted.

This amendment was considered indispensable by many of the committee; for, Congress having the power of laying excises, (the horror of a free people,) by which our dwelling houses, those castles considered so sacred by the English law, will be laid open to the insolence and oppression of office, there could be no constitutional check provided that would prove so effectual a safeguard to our citizens. General warrants, too, the great engine by which power may destroy those individuals who resist usurpation, are also

hereby forbidden to those magistrates who are to administer the general government.

9. That no soldier be enlisted for a longer time than four years, except in time of war, and then only during the war.

10. That soldiers be not quartered, in time of peace, upon private houses, without the consent of the owners.

11. That no mutiny bill continue in force longer than two years.

These were the only checks that could be obtained against the unlimited power of raising and regulating standing armies, the natural enemies to freedom; and even with these restrictions, the new Congress will not be under such constitutional restraints as the Parliament of Great Britain—restraints which our ancestors have bled to establish, and which have hitherto preserved the liberty of their posterity.

12. That the freedom of the press be inviolably preserved.

In prosecutions in the federal courts for libels, the constitutional preservation of this great and fundamental right may prove invaluable.

13. That the militia shall not be subject to martial law, except in time of war, invasion, or rebellion.

This provision to restrain the powers of Congress over the militia, although by no means so ample as that provided by Magna Charta, and the other great fundamental and constitutional laws of Great Britain, (it being contrary to Magna Charta to punish a freeman by martial law, in time of peace, and murder to execute him,) yet it may prove an inestimable check; for all other provisions in favor of the rights of men would be vain and nugatory, if the power of subjecting all men, able to bear arms, to martial law at any moment should remain vested in Congress.

Thus far the amendments were agreed to.

The following amendments were laid before the committee, and negatived by a majority.

1. That the militia, unless selected by lot, or voluntarily enlisted, shall not be marched beyond the limits of an adjoining state, without the consent of their legislature or executive.

2. That the Congress shall have no power to alter or change the time, place, or manner of holding elections for senators or representatives, unless a state shall neglect to make regulations, or to execute its regulations, or shall be prevented by invasion or rebellion; in which cases only, Congress may interfere, until the cause be removed.

3. That, in every law of Congress imposing direct taxes, the collection thereof shall be suspended for a certain reasonable time, therein limited

and on payment of the sum by any state, by the time appointed, such taxes shall not be collected.

4. That no standing army shall be kept up in time of peace, unless with the consent of two thirds of the members present of each branch of Congress.

5. That the President shall not command the army in person, without the consent of Congress.

6. That no treaty shall be effectual to repeal or abrogate the constitutions or bills of rights of the states, or any part of them.

7. That no regulation of commerce, or navigation act, shall be made, unless with the consent of two thirds of the members of each branch of Congress.

8. That no member of Congress shall be eligible to any office of profit under Congress, during the time for which he shall be appointed.

9. That Congress shall have no power to lay a poll tax.

10. That no person conscientiously scrupulous of bearing arms, in any case, shall be compelled personally to serve as a soldier.

11. That there be a responsible council to the President.

12. That there be no national religion established by law; but that all persons be equally entitled to protection in their religious liberty.

13. That all imposts and duties laid by Congress shall be placed to the credit of the state in which the same shall be collected, and be deducted out of such state's quota of the common or general expenses of government.

14. That every man hath a right to petition the legislature for the redress of grievances, in a peaceable and orderly manner.

15. That it be declared, that all persons intrusted with the legislative or executive powers of government are the trustees and servants of the public; and, as such, accountable for their conduct. Wherefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to, reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive of the good and happiness of mankind.

The committee having proceeded thus far, all the members who voted for the ratification declared that they would engage themselves, under every tie of honor, to support the amendments they had agreed to, both in their public and private characters, until they should become a part of the general government; but a great majority of them insisted on this express condition, that none of the propositions rejected, or any others, should be laid before the Convention for their consideration, except those the committee had so agreed to.

The gentlemen of the minority, who had made the propositions which had been rejected, reduced to the necessity of accommodating their sentiments to the majority, through fear of obtaining no security whatever for the people, — not-

withstanding they considered all the amendments as highly important to the welfare and happiness of the citizens of the states, — yet, to conciliate, they agreed to confine themselves to the first three of those propositions, and solemnly declared and pledged themselves, that, if these were added, and supported by other gentlemen, they would not only cease to oppose the government, but give all their assistance to carry it into execution so amended. Finally, they only required liberty to take the sense of the Convention on the first three propositions, agreeing that they would hold themselves bound by the decision of a majority of that body.

The first of these objections, concerning the militia, they considered as essential; for, to march beyond the limits of a neighboring state the general militia, which consists of so many poor people that can ill be spared from their families and domestic concerns, by power of Congress, (who could know nothing of their circumstances,) without consent of their own legislature or executive, ought to be restrained.

The second objection, respecting the power of Congress to alter elections, they thought indispensable. Montesquieu says that the rights of elections should be established unalterably by fundamental laws, in a free government.

The third objection, concerning previous requisitions, they conceived highly important: they thought, if the money required by direct taxation could be paid with certainty, and in due time, to Congress, that every good consequence would be secured to the Union, and the people of the state thereby relieved from the great inconvenience and expense of a double collection, and a double set of tax-gatherers, and they might also get rid of those odious taxes by excise and poll, without injury to the general government.

They were, however, again proposed and rejected.

Affirmative. — Mr. Paca, Mr. Johnson, Mr. Mercer, Mr. J. T. Chase, Mr. S. Chase.

Negative. — Mr. Lee, Mr. Potts, Mr. Goldsborough, Mr. J. T. Tilghman, Mr. W. Tilghman, Mr. Hanson, Mr. G. Gale, Mr. M'Henry.

Previous to this, a motion was made on Monday, the 29th, in the Convention, while the committee were sitting, in the following words, to wit: —

“*Resolved*, That this Convention will consider of no propositions for amendment of the federal government, except such as shall be submitted to them by the committee of thirteen.”

The committee being sent for by the Convention, the gentlemen of the majority in committee then determined that they would make no report of any amendments whatever, not even of those which they had almost unanimously agreed to; and the committee, under those circumstances, attended the house. Mr. Paca, as chairman, stated to the Convention what had passed in the committee, read the amendments which had there been agreed to, and assigned the reason why no report had been formally made. A member then rose, and proposed that a vote of thanks to the president, which had been once read before the attendance of the committee, should have a second reading; and upon the second reading thereof, the previous question was called for by the members who wished to consider the amendments agreed to by the committee, and such other amendments as might be proposed. The house thereupon divided, and the yeas and nays were called for by the minority; the sense of the Convention was taken thereon; and a majority determined that the yeas and nays should not be taken, nor would they permit the vote to be entered on the journal, by which the yeas and nays were prohibited; to preclude the consideration of any amendments.

A motion was then made, "that the Convention adjourn without day," on which the yeas and nays were taken, and appeared as follows:—

Affirmative. — The Hon. the President, Messrs. Barns, Chilton, Sewel, W. Tilghman, Yates, Granger, Chesly, Smith, Brown, Turner, Stone, Goldsborough, Stevens, G. Gale, Waggaman, Stewart, J. Gale, Sulivane, Shaw, Gilpin, Hollingsworth, Heron, Evans, O. Sprigg, Hall, Digges, Hanson, J. Tilghman, Holliday, Hemsley, Morris, Lee, Potts, Faw, J. Richardson, Edmondson, M'Henry, Coulter, T. Sprigg, Stull, Rawlins, Shryoch, Cramphin, Thomas, Deakins, Edwards. 47.

Negative. — Messrs. Perkins, J. T. Chase, S. Chase, Mercer, Wilkinson, Grahame, Parnham, Ridgely, Cockey, Cromwell, Lloyd, Hammond, Bowie, Carroll, Seney, Chaile, Martin, Done, Johnson, Paca, Love, Pinckney, L. Martin, W. Richardson, Driver, and Harrison. 27.

We consider the proposed form of national government as very defective, and that the liberty and happiness of the people will be endangered if the system be not greatly changed and altered. The amendments agreed to by the committee, and those proposed by the minority, are now laid before you for your consideration, that you may express

your sense as to such alterations as you may think proper to be made in the new Constitution.

We remain persuaded that the importance of the alterations proposed, calculated to preserve public liberty by those checks on power which the experience of ages has rendered venerable, and to promote the happiness of the people, by a due attention to their ease and convenience, will justify the steps we have taken, to obtain them, to our constituents and the world.

Having no interest that can distinguish us from the rest of the community, we neither fear censure nor wish applause. Having thus discharged the duty of citizens and trustees of the public, we shall now submit to the people those precautions and securities, which, on mature reflection on this momentous subject, we deem necessary for that safety and happiness.

May the all-wise and omnipotent Being, who made us masters of a fair and fruitful empire, inspire us with wisdom and fortitude to perpetuate to posterity that freedom which we received from our fathers!

Members of the Committee. — William Paca, Samuel Chase, John F. Mercer, Jeremiah T. Chase.

Members of the Convention. — John Love, Charles Ridgely, Edward Cockey, Nathan Cromwell, Charles Ridgely, of Wm., Luther Martin Benjamin Harrison, Wm. Pinckney.



